

**THE 104(e) RESPONSE**  
**PROVIDED BY**  
**ZIDELL DISMANTLING**  
**AND**  
**RELATED ECOLOGY DOCUMENT**



# ZIDELL MARINE CORPORATION

3121 S.W. Moody Avenue  
Portland, Oregon 97201  
(503) 228-8691/800-547-9259  
FAX: (503) 228-6750/RCA Telex 283985

*withdrawn  
per 12/28/92*  
**CONFIDENTIAL**

November 18, 1992

**RECEIVED**  
**NOV 19 1992**  
SUPERFUND REMEDIAL BRANCH

Ms. Allison Hiltner  
United States Environmental  
Protection Agency  
Region 10 (HW-113)  
1200 Sixth Avenue  
Seattle, WA 98101

Re: Commencement Bay Nearshore/Tideflats Superfund Site, Tacoma, Washington  
EPA Information Request Letter  
Zidell Marine Corporation

Dear Ms. Hiltner:

By your September 15, 1992 letter the EPA requested that Zidell Marine Corporation (formerly Zidell Dismantling Company) respond to several questions concerning prior activities at Tacoma, Washington. Zidell received this request on September 21, 1992 and obtained a 30 day extension of time to respond from Richard McAllister, Esquire with the EPA's Office of Regional Counsel. Our response is, thus, due by November 20, 1992. This letter is Zidell Marine Corporation's response to the EPA's CERCLA Section 104(e) Request for Information.

As Zidell Marine Corporation's following responses include descriptions of corporate methods of operations and processes, corporate history, and other proprietary information, Zidell Marine Corporation respectfully requests that this letter be treated as confidential and not made available to the public. We recognize, of course, that this information may need to be made available to your "contractors" involved with the Commencement Bay Nearshore/Tideflats superfund site and we have no objection to such release, but we ask that it be held in confidence by these parties. We do not believe the following responses fall within the exceptions which "shall not be entitled to protection...." as set forth in CERCLA §104(e), 7(F). If you have any questions regarding our request for confidentiality, please immediately contact me.

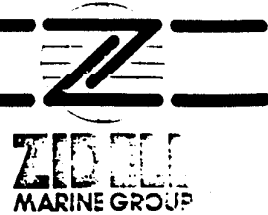
The following comments correlate with the EPA's Request for Information.

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between Zidell and Pan Alaska Fisheries, Inc. for a portion of building 203. A copy of this rental agreement is also enclosed.

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waterways or nearshore areas. If it had, such would be indicated by the attached leases.

6. Zidell's activities on the property leased from the Port of Tacoma involved only two activities which were (a) ship dismantling, and (b) barge building. Each of the following subparts of this question number 6 are answered with respect to both activities.

6(a) Mr. Jack Zidell, Vice President was the titular head of Zidell activities in Tacoma from 1960 through 1984. Mr. Zidell is presently still with Zidell at 3121 S.W. Moody Avenue, Portland, Oregon, 97201. In actuality, Mr. Al Neumeister was in charge of ship dismantling when Zidell first began operations in 1960. Mr. Neumeister is now deceased. Mr. Neumeister was succeeded as superintendent of ship dismantling by Mr. Raymond Gobel, who is also now deceased. Mr. Irvin Frankel supervised barge building activities throughout most, if not all, of the time Zidell built barges. Zidell believes Mr. Frankel still resides in the Seattle/Tacoma area.

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crowbars, pry bars, welding equipment, and the like.

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Lubercating oils, diesel fuels and other used oil which may have been recovered from ships were sold by Zidell to recyclers or users. Mr. Jack Zidell recalls one specific sale of 800,000 gallons of used marine oil sold to Fletcher Oil Company, also then of Tacoma, Washington.

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- 6(g) To a large extent this question is answered by Zidell's response to 6(e) above. In addition, there was a tank for used oil removed from vessels located adjacent to Shipway No. 1 into which Zidell would pump oil which was subsequently removed by recyclers to whom it was sold. This tank, which was surrounded by a steel berm, was sold by Zidell to a Mr. Walker who then ran Coast Engine prior to Zidell's leaving the property in 1983. Otherwise, oil removed from vessels was pumped directly into recyclers' tanks or into barges for transport to users or to the oil recyclers' facilities.
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- (vi) Undated City of Tacoma Public Works Department's letter concerning grant application for sanitary sewage facility funding.

8. Except to the extent that it might be addressed by the above correspondence or above referenced leases, all of which are endorsed, Zidell has no knowledge of surface water run off. Therefore, Zidell is unable to respond further to this request.



9. Zidell is aware of one or possibly two underground gasoline tanks located in the vicinity of building 544 from which motor vehicles were fueled. Note, also, that the 1981 lease between Zidell and the Port of Tacoma refers to Port owned underground storage tanks. Addendum No. 1 to this lease, which is also enclosed, is an indemnification agreement whereby the Port indemnifies Zidell from any liability resulting from these underground oil storage tanks.
10. Not applicable.
11. Zidell placed concrete blocks on the water's edge of the bank between Piers No. 23 and No. 24 adjacent to Commencement Bay as ballast, which served to stabilize the bank. Zidell at one time also leased a piece of property from the Port of Tacoma west of Alexander Avenue and north of 11th Street. Within this leased parcel, which Zidell used for storage of equipment and which was then dirt property, Zidell stabilized two road beds by placing small rock solidified by oil; this parcel, which has now been completely capped by blacktop, was not adjacent to either the Hylebos or Blair waterways.
12. Mr. Jack Zidell recalls that he was once told by someone from the Port of Tacoma that a small oil tank or large oil can had been tipped over spilling an unknown amount of oil which was subsequently cleaned up and placed back into the oil container. Zidell is not aware of the date, quantity or cause of this container tipping over.

Mr. Jack Zidell also recalls that sometime in the 1970's when Zidell was pumping oil from a ship being dismantled to a barge, a quantity of oil spilled into the Hylebos waterway. On this occasion, booms were placed around the oil and an independent environmental cleanup contractor, perhaps Crowley

Environmental, cleaned up the oil spill. No record of this spill or cleanup now exist at Zidell.

As noted in response to question 11, oil was used to solidify small ballast rock for two roadways within one leased parcel of property.

Zidell is not aware of any enforcement orders, inspection reports, investigative reports or permits on any of the above incidents.

13. Mr. Jack Zidell recalls that Hooker Chemical (now Occidental Chemical) had problems with releases of some sort on its property adjacent to the Hylebos or into the Hylebos waterway itself. Mr. Zidell also recalls that the Port of Tacoma sunk test pipe on the property Zidell leased from the Port adjacent to the Hooker Chemical/Occidental Chemical property to determine if contamination was leaching onto the Port's property.
14. Except as noted in responses 12 and 13 above, Zidell is not aware of any environmental investigations conducted by anyone on any property Zidell leased from the Port of Tacoma.
15. For all property leased from the Port of Tacoma, its condition was the same at the end of the lease as at the beginning, normal wear-and-tear excepted.
16. Zidell Marine Corporation's current address is 3121 S.W. Moody Avenue, Portland, Oregon, 97201. The contact person regarding this Request for Information and General Notice Letter is Richard J. McCain, Corporate Secretary and General Counsel, Zidell Marine Corporation, 3121 S.W. Moody Avenue, Portland, Oregon 97201, telephone (503) 228-8691.

- 17(a) Zidell Marine Corporation is a Washington corporation.
- 17(b) Zidell Marine Corporation was incorporated in January, 1960. Since that time there has been normal turnover in officers and directors. Current directors are: Mr. Emery Zidell, Jay Zidell and Larry G. Richards. Current officers are: President, Jay Zidell; Vice Presidents, Emery Zidell and Jack Zidell; Treasurer, Larry G. Richards; Secretary, Richard J. McCain. All directors and officers are located at 3121 S.W. Moody Avenue, Portland, 97201, telephone (503) 228-8691.
- 17(c) Zidell Marine Corporation has always been a Washington corporation.
- 17(d) Zidell Marine Corporation was originally incorporated as Zidell-Michaels Dismantling, Inc. In May 5, 1960, its corporate name was changed to Zidell Dismantling Company, and on February 16, 1981, its corporate name was changed to Zidell Marine Corporation. The company formerly had a subsidiary known as TFA, Inc., an Oregon corporation, which was incorporated October 22, 1984, and which on October 30, 1991 was merged into Zidell Marine Corporation.
- 17(e) Zidell is not aware of any arrangements made with the Port of Tacoma or any other party regarding liability for environmental contamination or property damage except as may be set forth in the enclosed leases. In particular note the Port's acknowledgement that it intended to continue to operate underground oil storage tanks on Zidell leased property set forth in Zidell's 1981 lease from the Port, and Addendum No. 1 thereto, wherein the Port agrees to indemnify and hold Zidell harmless from any liability therefrom.
- 18(a) Since incorporation in 1960, there have been approximately 200 general

liability insurance carriers providing primary and excess general liability coverage. If the EPA believes it is relevant and absolutely necessary, a list could be compiled of the names of these liability insurance carriers.

- 18(b) Zidell certainly hopes and expects that several of its liability insurance policies would provide coverage for damages resulting from the release of hazardous substances and/or waste pollutants or contaminants if such were ever to be proven to occur from Zidell.
- 18(c) Copies of all Zidell liability insurance policies are available for review at Zidell's Portland, Oregon offices. As with respect to the liability insurance carriers requested in 18(a) above, if the EPA believes that dates and amounts of coverage are somehow relevant, a list could be provided.
19. All responsive records have been identified in Zidell's responses to questions 1 through 18 above.
20. The Port of Tacoma, its current and past employees, may have knowledge relating to the above questions. Likewise, Hooker Chemical/Occidental Chemical, their present and past employees, may have knowledge relating to the above questions.

If you have any further questions, please contact me.

Very truly yours,

ZIDELL MARINE CORPORATION



Richard J. McCain  
Corporate Secretary and  
General Counsel

RJM/lm

Brazier site

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CONFIDENTIAL

M E M O

TO: Urban Bay Action Team, Southwest Regional Water Quality  
Section, Department of Ecology

FROM: Ron Robinson, City of Tacoma Sewer Utility

SUBJECT: Possible Waste Oil Storage Adjacent to Hylebos Waterway

DATE: March 28, 1990

There is an old building located between Taylor Way and Hylebos Waterway that is south of the Tacoma Steam Plant #2. Inside this large building are concrete tanks which were full of heavy oil in the late 1970's.

A  
I recall that Bruce Smith who owned Ecology Oil Recycling, located adjacent to Alexander Avenue, had the waste oil put into the tanks during the early 1970's. The waste oil was pumped from an old aircraft carrier vessel that was to be scrapped by Ziddell Dismantling of Tacoma. This waste oil was to be used for furnace fuel but it contained fire retardant so it would not burn. This was a large volume of oil so it could not be contained at Ecology oil property.

The last activity I noticed at the old building was someone trying to pump the oil into tank trucks. This has been several years ago. I was told at that time that Chempro was trying to remove the oil but could not because it was too viscous to pump.

The old building is located near the Hylebos Waterway and may cause a large cleanup problem if the tanks still contain oil and the walls collapsed.

Tax records show the property of concern is owned by Taylor Way Properties, 201 Elliott Ave. West, Suite 400, Seattle, WA 98119 and the property address is 1501 Taylor Way.

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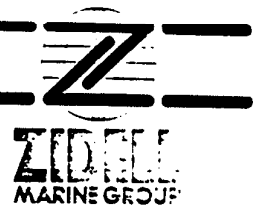
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11. Zidell placed concrete blocks on the water's edge of the bank between Piers No. 23 and No. 24 adjacent to Commencement Bay as ballast, which served to stabilize the bank. Zidell at one time also leased a piece of property from the Port of Tacoma west of Alexander Avenue and north of 11th Street. Within this leased parcel, which Zidell used for storage of equipment and which was then dirt property, Zidell stabilized two road beds by placing small rock solidified by oil; this parcel, which has now been completely capped by blacktop, was not adjacent to either the Hylebos or Blair waterways.
12. Mr. Jack Zidell recalls that he was once told by someone from the Port of Tacoma that a small oil tank or large oil can had been tipped over spilling an unknown amount of oil which was subsequently cleaned up and placed back into the oil container. Zidell is not aware of the date, quantity or cause of this container tipping over.

Mr. Jack Zidell also recalls that sometime in the 1970's when Zidell was pumping oil from a ship being dismantled to a barge, a quantity of oil spilled into the Hylebos waterway. On this occasion, booms were placed around the oil and an independent environmental cleanup contractor, perhaps Crowley

ZID1040008



Environmental, cleaned up the oil spill. No record of this spill or cleanup now exist at Zidell.

As noted in response to question 11, oil was used to solidify small ballast rock for two roadways within one leased parcel of property.

Zidell is not aware of any enforcement orders, inspection reports, investigative reports or permits on any of the above incidents.

13. Mr. Jack Zidell recalls that Hooker Chemical (now Occidental Chemical) had problems with releases of some sort on its property adjacent to the Hylebos or into the Hylebos waterway itself. Mr. Zidell also recalls that the Port of Tacoma sunk test pipe on the property Zidell leased from the Port adjacent to the Hooker Chemical/Occidental Chemical property to determine if contamination was leaching onto the Port's property.
14. Except as noted in responses 12 and 13 above, Zidell is not aware of any environmental investigations conducted by anyone on any property Zidell leased from the Port of Tacoma.
15. For all property leased from the Port of Tacoma, its condition was the same at the end of the lease as at the beginning, normal wear-and-tear excepted.
16. Zidell Marine Corporation's current address is 3121 S.W. Moody Avenue, Portland, Oregon, 97201. The contact person regarding this Request for Information and General Notice Letter is Richard J. McCain, Corporate Secretary and General Counsel, Zidell Marine Corporation, 3121 S.W. Moody Avenue, Portland, Oregon 97201, telephone (503) 228-8691.

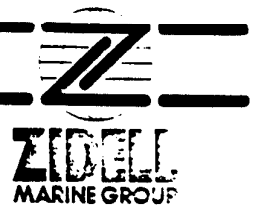
ZID1040009



- 17(a) Zidell Marine Corporation is a Washington corporation.
- 17(b) Zidell Marine Corporation was incorporated in January, 1960. Since that time there has been normal turnover in officers and directors. Current directors are: Mr. Emery Zidell, Jay Zidell and Larry G. Richards. Current officers are: President, Jay Zidell; Vice Presidents, Emery Zidell and Jack Zidell; Treasurer, Larry G. Richards; Secretary, Richard J. McCain. All directors and officers are located at 3121 S.W. Moody Avenue, Portland, 97201, telephone (503) 228-8691.
- 17(c) Zidell Marine Corporation has always been a Washington corporation.
- 17(d) Zidell Marine Corporation was originally incorporated as Zidell-Michaels Dismantling, Inc. In May 5, 1960, its corporate name was changed to Zidell Dismantling Company, and on February 16, 1981, its corporate name was changed to Zidell Marine Corporation. The company formerly had a subsidiary known as TFA, Inc., an Oregon corporation, which was incorporated October 22, 1984, and which on October 30, 1991 was merged into Zidell Marine Corporation.
- 17(e) Zidell is not aware of any arrangements made with the Port of Tacoma or any other party regarding liability for environmental contamination or property damage except as may be set forth in the enclosed leases. In particular note the Port's acknowledgement that it intended to continue to operate underground oil storage tanks on Zidell leased property set forth in Zidell's 1981 lease from the Port, and Addendum No. 1 thereto, wherein the Port agrees to indemnify and hold Zidell harmless from any liability therefrom.
- 18(a) Since incorporation in 1960, there have been approximately 200 general

ZID1040010

Ms. Allison Hiltner  
November 18, 1992  
Page 11



liability insurance carriers providing primary and excess general liability coverage. If the EPA believes it is relevant and absolutely necessary, a list could be compiled of the names of these liability insurance carriers.

- 18(b) Zidell certainly hopes and expects that several of its liability insurance policies would provide coverage for damages resulting from the release of hazardous substances and/or waste pollutants or contaminants if such were ever to be proven to occur from Zidell.
- 18(c) Copies of all Zidell liability insurance policies are available for review at Zidell's Portland, Oregon offices. As with respect to the liability insurance carriers requested in 18(a) above, if the EPA believes that dates and amounts of coverage are somehow relevant, a list could be provided.
- 19. All responsive records have been identified in Zidell's responses to questions 1 through 18 above.
- 20. The Port of Tacoma, its current and past employees, may have knowledge relating to the above questions. Likewise, Hooker Chemical/Occidental Chemical, their present and past employees, may have knowledge relating to the above questions.

If you have any further questions, please contact me.

Very truly yours,

ZIDELL MARINE CORPORATION

A handwritten signature in cursive script that reads 'Richard J. McCain'.

Richard J. McCain  
Corporate Secretary and  
General Counsel

RJM/lm

ZID1040011



( R E N T A L   A G R E E M E N T )

THIS AGREEMENT, made this 1st day of May, 1976,  
by and between Zidell Dismantling, Inc., a Washington Corporation, the  
landlord herein, and

PAN-ALASKA FISHERIES, INC.  
P.O. Box 647  
Monroe, Washington 98272

the tenant herein.

WITNESSETH: The landlord hereby rents to the tenant the following  
described area in Port of Tacoma, Tacoma, Pierce County, Washington,  
to-wit:

Portion of Building 203

for a term of one year commencing on May 1, 1976 at a rental of  
Eight Hundred Dollars and no/100 (\$800.00) - - - - DOLLARS per month,  
payable monthly in advance at the office of Zidell Dismantling, Inc..  
Renting or subletting prohibited. This agreement is in effect only as  
long as Zidell Dismantling, Inc. has possession of the premises.

Tenant shall use the premises for

Storage

Tenant will not conduct any other or different business upon the said  
premises without the written consent of landlord, which consent will not be  
unreasonably withheld.

Tenant assumes responsibility of preventing damage to plumbing in  
freezing weather in premises held or used, and at his expense repair any  
damage resulting from freezing conditons.

Landlord reserves the right to inspect the premises at any time as to  
compliance with law, safety regulations and practices, and the terms of this  
agreement.

In case of default in any payment herein provided for to be made by  
tenant, it shall be lawful for landlord to re-enter the premises and to remove  
all persons therefrom. Tenant hereby covenants, promises and agrees to pay  
the landlord the rents herein provided for at the times and in the manner above  
provided for, and to be primarily responsible for the rents and covenants  
herein contained or subsequently agreed upon between the parties, or their  
assignee.

Landlord shall be free from liability to tenant for loss or damage to the  
building covered by this agreement and all property of tenant on the demised  
premises caused by fire and "Extended Coverage" hazards, without regard to  
whether such loss or damage be the result of any act or neglect of owner, its  
agents or employees. Tenant expressly waives all claims for such loss or  
damage.

ZID1040012

Tenant agrees to hold landlord harmless as to all claims arising out of damage to the property of third parties and bodily injuries to or the death of any person or persons in or about said premises, and to furnish a certificate of insurance on an occurrence basis, including contractual liability, naming Zidell Dismantling, Inc. as an additional assured with limits of \$100,000/300,000 for bodily injuries and \$50,000 for property damage. Such certificate shall provide that there shall be no cancellation of, or failure to renew, such insurance without thirty days' written notice to Zidell Dismantling, Inc.

Tenant agrees to keep said premises in a clean and safe condition and to comply with all police, sanitary or safety laws and all applicable regulations or ordinances of all governmental bodies having authority over said premises or any part thereof.

Building, other than trade fixtures and equipment placed on the said premises during said tenancy, shall be deemed permanent fixtures and become the property of Zidell Dismantling, Inc.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their proper officers thereunto authorized this 1st. day of May, 1976.

Landlord: ZIDELL DISMANTLING, INC.

By *Jack Zidell*  
Its Vice President

Tenant: PAN-ALASKA FISHERIES, INC.

By *Jim S. [unclear]*  
Its *Capt. [unclear]*

ZID1040013



XX FIREMAN'S FUND INSURANCE COMPANY  
XX THE AMERICAN INSURANCE COMPANY  
XX NATIONAL SURETY CORPORATION  
XX ASSOCIATED INDEMNITY CORPORATION  
XX AMERICAN AUTOMOBILE INSURANCE COMPANY

# CERTIFICATE OF INSURANCE

TO:

ZIDELL DISMANTLING, Inc.  
401 Alexander  
Tacoma Washington

DATE 5-19-76

THIS IS TO CERTIFY THAT THE COMPANY OR COMPANIES CHECKED ABOVE HAVE IN FORCE AS OF THE DATE HEREOF THE FOLLOWING POLICY OR POLICIES

NAME AND ADDRESS OF INSURED OR EMPLOYER	LOCATION OF PROPERTY, DESCRIPTION OF OPERATIONS, BUSINESS CONDUCTED
PAN ALASKA FISHERIES, Inc. Box 647 Monroe Washington 98272	Portion of Building 203 Port of Tacoma

KIND OF INSURANCE	POLICY NUMBER	EXPIRATION	LIMITS OF LIABILITY
WORKMEN'S COMPENSATION			STATUTORY
EMPLOYERS' LIABILITY			THOUSAND DOLLARS, EACH PERSON THOUSAND DOLLARS, EACH ACCIDENT
BODILY INJURY LIABILITY OTHER THAN AUTOMOBILE*	LC 241 30 74	5-1-78	THOUSAND DOLLARS, EACH PERSON 1,000 THOUSAND DOLLARS, EACH OCCURRENCE 1,000 THOUSAND DOLLARS, AGGREGATE PRODUCTS AND COMPLETED OPERATIONS
PROPERTY DAMAGE LIABILITY OTHER THAN AUTOMOBILE*	"	"	100 THOUSAND DOLLARS, EACH OCCURRENCE 100 THOUSAND DOLLARS, AGGREGATE PRODUCTS 100 THOUSAND DOLLARS, AGGREGATE CONTRACTUAL 100 THOUSAND DOLLARS, AGGREGATE PRODUCTS AND COMPLETED OPERATIONS
AUTOMOBILE: BODILY INJURY LIABILITY*			THOUSAND DOLLARS, EACH PERSON THOUSAND DOLLARS, EACH OCCURRENCE
PROPERTY DAMAGE LIABILITY*			THOUSAND DOLLARS, EACH OCCURRENCE
MEDICAL PAYMENTS			\$ EACH PERSON
COMPREHENSIVE—LOSS OF OR DAMAGE TO THE AUTOMOBILE, EXCEPT BY COLLISION OR UPSET BUT INCLUDING FIRE, THEFT AND WINDSTORM			ACTUAL CASH VALUE (UNLESS OTHERWISE STATED HEREIN) \$
COLLISION OR UPSET			ACTUAL CASH VALUE LESS \$ DEDUCTIBLE

## DESCRIPTION AND LOCATION OF OPERATIONS AND AUTOMOBILES COVERED

In the event of cancellation it is agreed that thirty (30) days prior written notice will be given to the above named certificate holder.

ZID1040014

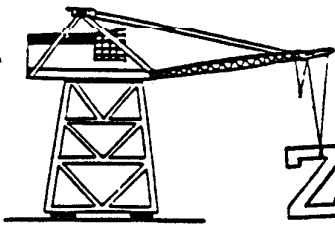
\*IF COMPREHENSIVE, SO STATE.

THIS CERTIFICATE OF INSURANCE NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE AFFORDED BY THE POLICY OR POLICIES SHOWN ABOVE.

IN EVENT OF ANY MATERIAL CHANGE IN OR CANCELLATION OF THE POLICY OR POLICIES THE COMPANY WILL MAKE EVERY EFFORT TO NOTIFY THE ADDRESSEE BUT UNDERTAKES NO RESPONSIBILITY FOR FAILURE TO DO SO.

AUTHORIZED REPRESENTATIVE

*[Signature]*



572-5700

**ZIDELL** *Dismantling Inc.*

TACOMA, WASHINGTON 98421

May 24, 1976

LaBow, Haynes Company, Inc.  
Seattle First National Bank Building  
Seattle, Washington 98104

Attention: Mr. Stanley C. Taylor

Re: F. F. Policy LC 241-30-74

Gentlemen:

On May 19, 1976 you issued us a certificate of insurance on the above-referenced policy (copy enclosed).

The rental agreement for the portion of Building 203, Port of Tacoma, requires that Zidell Dismantling, Inc. be named as an additional assured.

Please issue a new certificate as soon as possible including this requirement.

Thank you for your cooperation.

Very truly yours,

ZIDELL DISMANTLING, INC.

R. G. Thorne  
Insurance Manager

RGT:bmh  
enclosure

cc: Pan Alaska Fisheries, Inc.  
Jack Zidell ✓

ZID1040015

# PORT of TACOMA

TELEPHONES: TACOMA, FULTON 3-5841 • SEATTLE, VERNON 2-0142 • P. O. BOX 1837, TACOMA, WASHINGTON 98401

March 22, 1971

MODEL DISM

Zidell Dismantling  
PO Box 512  
Tacoma, WASHINGTON

Dear Sir:

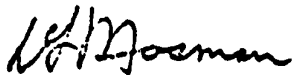
The Port of Tacoma is undertaking a study to determine the most efficient and feasible method of collecting and disposing of all solid wastes generated within the waterfront and adjacent areas of Commencement Bay. The study will include the possibility of integrating this solid waste management system with similar plans by the City of Tacoma and/or Pierce County. Emphasis will be placed on determining possible methods of reclamation, recycling and reuse of these wastes.

The results of this study can only be as good as the input information furnished; therefore, we are asking your assistance in providing the quantity of different types of wastes generated by your local firm over a period of time applicable to your situation. We would also like to know the present methods used in collection and disposal of these wastes and possibilities for the future modification thereof. Because of the nature of this inquiry, any or all information will be held in confidence upon your request.

The time sequence of this study is very critical due to imposed deadlines for system implementation. We would therefore appreciate your immediate response within one week to this request for information.

If you have any questions with regard to this subject, please contact Mr. Ron Waller, Administrative Assistant (Ext. 210) or Mr. Bill Peterson, Project Engineer (Ext. 233) of this office.

Very truly yours,



D. L. Mosman  
Chief Engineer

DLM/WJP/slm

ZID1040016



# PORT of TACOMA

TELEPHONES: TACOMA, FULTON 3-3841 - SEATTLE, VERNON 8-0142 • P. O. BOX 1837, TACOMA, WASHINGTON 98401

August 16, 1974

RECEIVED

AUG 20 1974

ZIDELL DISM.

Mr. Jack Zidell  
Zidell Dismantling, Inc.  
401 Alexander  
Tacoma, Washington 98421

Subject: Industrial Yard Storm Sewers

Dear Jack:

The Port Commission authorized the call for bids for installation of storm sewers in the Port Industrial Yard, and the bid opening is set for August 29, 1974. I am enclosing a copy of the storm drain plans for this project, and I would be interested in your comments.

Very truly yours,



D. L. Mosman  
Chief Engineer

DLM:cw

Enclosure

UNCOED ONE  
DETENTION / PHONE - DEN MOSMAN  
PAGE 24 HUGH WILD

ZID1040017



Department of  
**Public Works**

March 14, 1983

Zidell Marine Corp.  
Building No. 592  
401 Alexander Avenue  
Tacoma, WA 98421

Gentlemen:

The City of Tacoma has been required by the U.S. Environmental Protection Agency (EPA) to develop and implement an Industrial Pretreatment Program in accordance with the "General Pretreatment Regulations for Existing and New Sources of Pollution" (40 CFR, Part 403). These regulations establish responsibilities of federal, state, and local government, industry and the public to implement National Pretreatment Standards to control pollutants that would:

1. Pass through treatment works to receiving waters.
2. Interfere with treatment processes at treatment works.
3. Contaminate sewage sludges at treatment works.

Through the establishment of our Industrial Pretreatment Program, the City of Tacoma hopes to achieve the following objectives:

1. Determination of the industrial dischargers that will be affected by the Pretreatment Regulations through the use of an Industrial Pretreatment Program User Survey.
2. Notification of local industrial dischargers of the Pretreatment Regulations and the effects these regulations will have on their discharge.
3. Assistance to, and of, those industries affected by the Pretreatment Regulations in controlling their discharge of unacceptable, non-domestic pollutants to the sanitary sewer system.

The City is under an EPA regulatory order to implement the Pretreatment Program on July 1, 1983. In order to be in compliance on this date, we are requesting your cooperation in completing the enclosed Industrial Pretreatment Program User Survey form and submitting it to us by April 15, 1983. For your

ZID1040018

March 14, 1983

Page 2

convenience, we have also enclosed a self-addressed return envelope. For assistance in filling out the form, you may contact Dave Koberstein or Chan Odell of the Sewer Utility Division at (206) 591-5588. After the results of the survey have been compiled, those industries to be included in the City's Pretreatment Program will be notified and invited to attend an informational meeting.

Let me take this opportunity to thank you in advance for your cooperation.

Sincerely,

*R M Button*

R. M. Button, P.E.  
Director

RMB:CLO:lw

Enclosure: Industrial User Survey Form  
Self-Addressed Return Envelope

File: Pretreatment Program

ZID1040019



**CITY OF TACOMA  
INDUSTRIAL PRETREATMENT PROGRAM  
USER SURVEY**

**NOTE TO SIGNING OFFICIAL:** Make sure all blanks in Sections I through III are completed. Information must be typewritten or clearly printed. Attach additional sheets keyed to section and item number if needed to provide complete information. Signing official must have authorization to provide such information on behalf of the company, corporation or partnership. Please complete a survey form for each facility that discharges to the City sanitary sewer system. Additional copies of this form are available from the Tacoma Sewer Utility, telephone (206) 591-5588.

**SECTION I — GENERAL INFORMATION**

**A. INDUSTRIAL USER—GENERAL**

1. Company name \_\_\_\_\_
2. Division name (if applicable) \_\_\_\_\_
3. Mailing address:
  - a. Street or P.O. Box \_\_\_\_\_
  - b. City, state, and zip code \_\_\_\_\_
4. Facility address:
  - a. Street address \_\_\_\_\_
  - b. City, state, and zip code \_\_\_\_\_
5. Name, title, and telephone number of signing official
  - a. Name \_\_\_\_\_
  - b. Title \_\_\_\_\_
  - c. Telephone number \_\_\_\_\_

**B. CONFIDENTIALITY**

Please indicate those sections of this questionnaire that you wish to remain confidential and your basis for requiring confidentiality.

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I have personally examined and am familiar with the information submitted in this document and attachments. Based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Official  
(Seal if Applicable)

## SECTION II — WATER/WASTEWATER DATA

A. WATER SOURCES	Average Volume (gallons per day)	Peak Flow/Est'd. Duration (gallons per minute/time)
1. Municipal system	_____	_____
2. Recycled	_____	_____
3. Private wells	_____	_____
4. Other (specify) _____	_____	_____
TOTAL	_____	_____

B. WATER USAGE	Average Volume (gallons per day)	Peak Flow/Est'd. Duration (gallons per minute/time)
1. Cooling water	_____	_____
2. Boiler makeup	_____	_____
3. Process water	_____	_____
4. Sanitary purposes (5200 gal/emp/yr)	_____	_____
5. Other (specify) _____	_____	_____
6. Other (specify) _____	_____	_____
TOTAL	_____	_____

C. WATER DISCHARGE/LOSS	Average Discharge (gallons per day)	Peak Discharge/Est'd. Duration (gallons per minute/time)
1. Municipal sewer/sanitary		
a. Process	_____	_____
b. Sanitary	_____	_____
c. Cooling	_____	_____
2. Natural receiving water/storm drain	_____	_____
3. Waste hauler	_____	_____
4. Evaporation	_____	_____
5. Contained in product	_____	_____
6. Recycled	_____	_____
7. Other (specify) _____	_____	_____
TOTAL	_____	_____

D. DO YOU HAVE A NPDES PERMIT FOR A SURFACE WATER DISCHARGE? ☐ YES ☐ NO  
 PERMIT NO. \_\_\_\_\_

E. LIST PLANT SEWER OUTLETS, SIZE AND FLOW (assign sequential reference number to each sewer starting with No. 1):

Reference No.	Sewer Size (inches)	Descriptive location of sewer connection or discharge point	Avg. flow (GPD)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

ZID1040021

**F. SCHEMATIC PROCESS DIAGRAM**

Attach a schematic process diagram of your facility showing locations of sewers referenced in Section E above and the location of the SIC processes listed in Section III - B. Show locations of possible sampling points for sewers and SIC process effluents. For reference and field orientation, include a North arrow and show location of buildings, streets, alleys, and other pertinent physical structures.

**G. DO YOU HAVE AUTOMATIC SAMPLING EQUIPMENT OR CONTINUOUS WASTEWATER FLOW METERING EQUIPMENT CURRENTLY IN USE OR INCLUDED IN FUTURE PLANS?**

Current: Flow Metering ☐ Yes ☐ No

Sampling Equipment ☐ Yes ☐ No

Planned: Flow Metering ☐ Yes ☐ No

Sampling Equipment ☐ Yes ☐ No

If so, please indicate the present or future location of this equipment on the sewer schematic and describe the equipment below: \_\_\_\_\_

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**H. DOES YOUR FACILITY PRETREAT ANY WASTEWATER PRIOR TO DISCHARGE TO A SANITARY SEWER?**

☐ Yes ☐ No

If so, please show locations of pretreatment processes on attached schematic process diagram and describe below: \_\_\_\_\_

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**I. DO YOU HAVE A SPILL PREVENTION, CONTAINMENT AND CONTROL PLAN (SPCC) FOR YOUR PLANT?**

☐ Yes ☐ No

**J. DO YOU DISPOSE OF ANY CHEMICALS, SOLVENTS, SLUDGES, OR HAZARDOUS MATERIALS TO LOCATIONS OTHER THAN MUNICIPAL SEWERS OR SURFACE WATERS? (Example: landfill, hazardous waste site, or chemical recyclers)**

☐ Yes ☐ No

If so, provide a description of each material, giving the composition, solids content, annual quantity, means of disposal, and ultimate disposal location: \_\_\_\_\_

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ZID1040022

### SECTION III — PLANT/PROCESS DATA

#### A. PLANT OPERATIONAL CHARACTERISTICS

	Average	Seasonal Peak
1. Number of shifts per work day:	_____	_____
2. Number of work days per week:	_____	_____
3. Employees per shift:	Shift start times:	
1st _____	_____	a.m./p.m.
2nd _____	_____	a.m./p.m.
3rd _____	_____	a.m./p.m.
Total _____	_____	a.m./p.m.
4. ARE MAJOR PROCESSES BATCH OR CONTINUOUS?	_____	
AVERAGE NUMBER OF BATCHES PER 24 HOUR DAY:	_____	
5. ARE YOUR PROCESSES SUBJECT TO SEASONAL VARIATION?	_____	
If so, explain below, indicating month(s) of peak operation and products:	_____	
	_____	
	_____	
	_____	
	_____	

#### B. PRODUCT(S) OR SERVICE(S)

List all products manufactured or services provided by your facility, along with the corresponding SIC (Standard Industrial Classification) code. If you don't know what your SIC code is, you may find out from the City of Tacoma Sewer Utility by calling (206) 591-5588.

Product or service	4-digit SIC code	Product or service	4-digit SIC code
1. _____	_____	6. _____	_____
2. _____	_____	7. _____	_____
3. _____	_____	8. _____	_____
4. _____	_____	9. _____	_____
5. _____	_____	10. _____	_____

#### C. DESCRIPTION OF PRODUCTION OR SERVICE PROCESSES

Provide a separate description of the individual processes used in your facility that result in a wastewater discharge to a sanitary sewer: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ZID1040023



# F. PRIORITY POLLUTANT INFORMATION

1. Please indicate by placing an "X" in the appropriate box by each listed chemical whether it is Suspected to be Absent, Known to be Absent, Suspected to be Present, or Known to be Present in your manufacturing or service activity or generated as a byproduct. Some compounds are known by other names. Please refer to Attachment A for those compounds which have an asterisk (\*).

ITEM NO.	CHEMICAL COMPOUND	SUSPECTED ABSENT	KNOWN ABSENT	SUSPECTED PRESENT	KNOWN PRESENT	ITEM NO.	CHEMICAL COMPOUND	SUSPECTED ABSENT	KNOWN ABSENT	SUSPECTED PRESENT	KNOWN PRESENT
1.	ammonia					47.	chlorobenzene				
2.	asbestos (fibrous)					48.	chloroethane*				
3.	cyanide (total)					49.	2-chloroethylvinyl ether				
						50.	chloroform*				
4.	antimony (total)					51.	chloromethane*				
5.	arsenic (total)					52.	2-chloronaphthalene				
6.	beryllium (total)					53.	2-chlorophenol*				
7.	cadmium (total)					54.	4-chlorophenylphenyl ether				
8.	chromium (total)					55.	chrysene*				
9.	copper (total)					56.	4,4'-DDD*				
10.	lead (total)					57.	4,4'-DDE*				
11.	mercury (total)					58.	4,4'-DDT*				
12.	nickel (total)					59.	dibenzo(a,h)anthracene*				
13.	selenium (total)					60.	dibromochloromethane*				
14.	silver (total)					61.	1,2-dichlorobenzene*				
15.	thallium (total)					62.	1,3-dichlorobenzene*				
16.	zinc (total)					63.	1,4-dichlorobenzene*				
						64.	3,3'-dichlorobenzidine				
17.	acenaphthene					65.	dichlorodifluoromethane*				
18.	acenaphthylene					66.	1,1-dichloroethane*				
19.	acrolein					67.	1,2-dichloroethane*				
20.	acrylonitrile					68.	1,1-dichloroethane*				
21.	aldrin					69.	trans-1,2-dichloroethane*				
22.	anthracene					70.	2,4-dichlorophenol				
23.	benzene					71.	1,2-dichloropropane*				
24.	benzidine					72.	(cis & trans)1,3-dichloropropene*				
25.	benzo(a)anthracene*					73.	dieldrin				
26.	benzo(a)pyrene*					74.	diethyl phthalate*				
27.	benzo(b)fluoranthene					75.	2,4-dimethylphenol*				
28.	benzo(g,h,i)perylene*					76.	dimethyl phthalate				
29.	benzo(k)fluoranthene*					77.	di-n-butyl phthalate				
30.	a-BHC (alpha)					78.	di-n-octyl phthalate*				
31.	b-BHC (beta)					79.	4,6-dinitro-2-methylphenol*				
32.	d-BHC (delta)					80.	2,4-dinitrophenol				
33.	g-BHC* (gamma)					81.	2,4-dinitrotoluene				
34.	bis(2-chloroethyl)ether*					82.	2,6-dinitrotoluene				
35.	bis(2-chloroethoxy)methane*					83.	1,2-diphenylhydrazine*				
36.	bis(2-chloroisopropyl)ether*					84.	endosulfan I*				
37.	bis(chloromethyl)ether*					85.	endosulfan II*				
38.	bis(2-ethylhexyl)phthalate*					86.	endosulfan sulfate				
39.	bromodichloromethane*					87.	endrin				
40.	bromoform*					88.	endrin aldehyde				
41.	bromomethane*					89.	ethylbenzene				
42.	4-bromophenylphenyl ether					90.	fluoranthene				
43.	butylbenzyl phthalate					91.	fluorene*				
44.	carbon tetrachloride*					92.	heptachlor				
45.	chlordane					93.	heptachlor epoxide				
46.	4-chloro-3-methylphenol*										

ZID1040025



# ATTACHMENT A — PRIORITY POLLUTANT SYNONYM LISTING

CHEMICAL COMPOUND	SYNONYM	CHEMICAL COMPOUND	SYNONYM
benzo(a)anthracene	1,2-benzanthracene	di-n-octyl phthalate	di(2-ethylhexyl)phthalate
benzo(a)pyrene	2,3-benzophenanthrene	4,6-dinitro-2-methylphenol	4,6-dinitro-ortho-cresol
benzo(g,h,i)perylene	3,4-benzopyrene	1,2-diphenylhydrazine	hydrazobenzene
benzo(k)fluoranthene	1,12-benzoperylene	endosulfan I	a-endosulfan-alpha
g-BHC(gamma)	1,1,12-benzofluoranthene	endosulfan II	b-endosulfan-beta
bis(2-chloroethoxy)methane	Indane	fluorene	(alpha)-diphenylene methane
bis(2-chloropropoxy)ether	2,2'-dichloroethyl ether	hexachlorobenzene	perchlorobenzene
bis(chloromethyl)ether	2,2'-dichloroethoxy methane	hexachlorocyclopentadiene	perchlorocyclopentadiene
bis(2-ethoxy)phthalate	2,2'-dichloropropyl ether	hexachloroethane	perchloroethane
bromodichloromethane	(sym)dichloromethyl ether	Indenol 1,3,3-collpyrene	2,3-ortho-phenylene pyrene
bromomethane	2,2'-diethylhexyl phthalate	Isophorone	3,5,5-trimethyl-2-cyclohexen-1-one
carbon tetrachloride	dichlorobromomethane	methylene chloride	dichloromethane
4-chloro-3-methylphenol	tribromomethane	2-nitrophenol	para-nitrophenol
chloroethane	methyl bromide	4-nitrophenol	ortho-nitrophenol
chloroform	tetrachloromethane	N-nitrosodimethylamine	dimethyl-nitrosamine
2-chlorophenol	tetrachloromethane	N-nitrosodipropylamine	N-nitroso-di-n-propylamine
chrysene	para-chloro-meta-cresol	N-nitrosodiphenylamine	diphenyl-nitrosamine
4,4'-DDD	ethylchloride	PCB-1016	Arochlor 1016
	trichloromethane	PCB-1221	Arochlor 1221
	methyl chloride	PCB-1232	Arochlor 1232
	para-chlorophenol	PCB-1242	Arochlor 1242
	1,2-benzophenanthrene	PCB-1248	Arochlor 1248
	dichlorodiphenyldichloroethane	PCB-1254	Arochlor 1254
	p,p'-TDE	PCB-1260	Arochlor 1260
	tetrachlorodiphenylethane	2,3,7,8-tetrachlorodibenzo-	TCDD
	dichlorodiphenyldichloroethene	p-dioxin	acetylene tetrachloride
	p,p'-DDX	1,1,2,2-tetrachloroethane	perchloroethylene
	dichlorodiphenyltrichloroethane	tetrachloroethene	tetrachloroethylene
	1,2,5,8-dibenzanthracene	toluene	methylbenzene
	chlorodibromomethane	1,1,1-trichloroethane	toluol
	ortho-dichlorobenzene	1,1,2-trichloroethane	methyl chloroform
	meta-dichlorobenzene	trichloroethene	vinyl trichloride
	para-dichlorobenzene	trichlorofluoromethane	trichloroethylene
	difluorodichloromethane	vinyl chloride	fluorocarbon-11
	fluorocarbon-12		fluorotrichloromethane
	ethylidene chloride		chloroethene
	ethylene chloride		chloroethylene
	ethylene dichloride		
	1,1-dichloroethylene		
	acetylene dichloride		
	1,2(trans)-dichloroethylene		
	propylene dichloride		
	(cis & trans)1,3-dichloropropylene		
	diethyl phthalate		
	2,4-dimethylphenol		

ZID1040027





Department of  
**Public Works**

May 9, 1983

Zidell Marine Corp.  
Building No. 592  
401 Alexander Avenue  
Tacoma, WA 98421

This is to inform you that, as of this date, the Sewer Utility Division has not received your response to its Industrial Wastewater Pretreatment Program User Survey, dated March 14, 1983. As was explained to you in our letter of transmittal, the City of Tacoma is under an E.P.A. regulatory order to develop and implement this program by July 1, 1983. Therefore, it is imperative that we receive your response.

You may feel that your business does not contribute any of the pollutants or problems to the City's sewer system, therefore, have not returned the form. That is precisely the information we are seeking. We are trying to identify those customers who do not, as well as those who do, contribute priority or prohibited pollutants to the system. Your business has been identified as a potential source of such pollutants, therefore, the survey form was sent to you.

If you have not returned the form for fear of revealing information that will lead to a fine or other punitive action, please rest assured that that is not the intent of the survey or the pretreatment program. Our intent in developing and implementing the program is to assist any and all our users in eliminating discharges of prohibited or priority pollutants to Puget Sound via the Tacoma Sanitary Sewer System. In order to fulfill our objective, we need your cooperation and assistance. Not returning the form will require that we make personal contact with you to obtain the information. This will only delay implementation of the program and therefore we will not be in compliance with E.P.A. regulations by the July 1, 1983 deadline.

If you have already sent your form back, please disregard this notice. We appreciate your cooperation. If not, please send it to the Sewer Utility Division by June 3, 1983.

ZID1040028

Page 2

If you have any problems completing the survey form, please contact either Dave Koberstein or Chan Odell of the Sewer Utility Division at (206) 591-5588. They will provide any help you may need.

Thank you for your assistance in this program.

Sincerely,

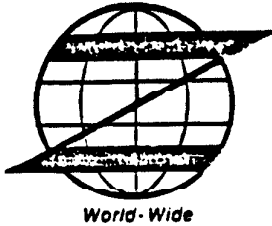


R. M. Button, P.E.  
Director of Public Works

RMB:CLO:lw

ZID1040029

Quality Barges



## ZIDELL MARINE CORPORATION

401 ALEXANDER AVENUE • TACOMA WASHINGTON 98421

May 12, 1983

PLEASE REPLY TO

✉ 401 ALEXANDER AVENUE  
TACOMA WASHINGTON 98421  
(206) 572 5700

☐ 3121 S W MOODY AVENUE  
PORTLAND OREGON 97204  
(503) 226-8691

R.M. Button, P.E.  
Department of Public Works  
City of Tacoma  
Suite 332, Tacoma Municipal Bldg.  
740 St. Helens Ave.  
Tacoma, Wa. 98402

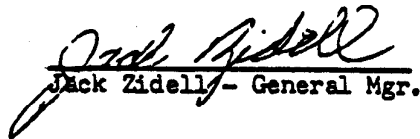
Gentlemen:

In response to your letter of March 14, 1983, I placed a phone call to your Mr. Dave Koberstein on March 31, 1983. At that time I indicated to him that we are tied in to the Port of Tacoma's sanitary system. Mr. Dave Koberstein asked me for a contact person at the Port and I gave him the name of Mr. William Kittrell. Mr. Koberstein indicated that he would contact him.

I am now in receipt of your letter of May 9, 1983 pursuant the same subject. Please be advised that by separate letter I am forwarding copies of this correspondence and referring this matter to the Port of Tacoma who is providing us with sewage disposal service.

Sincerely,

ZIDELL MARINE CORPORATION

  
Jack Zidell - General Mgr.

JZ/pz  
CC: William Kittrell

ZID1040030

# CITY OF TACOMA



WASHINGTON

Public Works Dept.

Gentlemen:

Imp. No. 3123

The City of Tacoma is presently preparing a grant application to the U.S. Department of Commerce, Economic Development Administration (EDA) for federal participation funds to construct sanitary sewage facilities in the Port Industrial Area of Tacoma.

The first of two projects will consist of a sanitary interceptor sewer extending from the City's existing Central Sewage Treatment Plant across the Port Industrial Area along Lincoln Avenue, plus improvements to the existing Central Treatment Plant.

The second project involves construction of a system of lateral collecting sewers designed to serve those industries and businesses within the City portion of the Port Industrial Area.

The purpose of these two projects is twofold. First, they will greatly assist in alleviating water pollution and potential health hazards now present in the Port Area and Commencement Bay.

Secondly, they will provide the only remaining utility service required for promotion of an orderly economic development of the Port Area. Presently the Washington State Department of Ecology is not permitting internal industrial expansion or development in the area by outside firms without adequate treatment of all sanitary and industrial organic wastes by either a municipal system or an onsite treatment process. Since the former is unavailable, many industries wishing to expand to the area have been unable to because of the high cost of providing individual treatment facilities.

The City proposes to finance the interceptor sewer through the sale of revenue bonds, federal and state grants, and hopefully a supplemental grant from EDA.

ZID1040031

COUNCIL-MANAGER GOVERNMENT

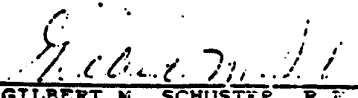
The normal procedure for financing lateral sewers is to form Local Improvement Districts (LID) whereby all benefited properties within the district will be assessed on a front foot basis. However, the excessively high construction costs anticipated for the Port Area could cause a financial hardship to many businesses, especially in light of the already depressed economy in Pierce County. The City is therefore applying for a 50% participation grant from EDA to help finance this lateral system.

Criteria for approval of this application will be measured in terms of economic development in the area as a result of the project, especially in terms of increased employment. We are therefore asking all industries to assess their future operations with respect to sewage treatment. If the escalation of your plant operations and subsequent employment levels will be affected by the availability of a sewerage system, we request that you outline this on the forms provided. Even if your plant operations will be unaffected by sanitary sewers, we would appreciate completion of these forms.

If you have any questions or require further information, please feel free to contact this department, FU 3-9311, Extension 494.

Very truly yours,

DEPARTMENT OF PUBLIC WORKS

  
GILBERT M. SCHUSTER, P.E.  
DIRECTOR

GMS:RAD:el  
Enc.

ZID1040032

**ASSURANCES OF COMPLIANCE WITH THE DEPARTMENT OF  
COMMERCE REGULATIONS UNDER TITLE VI OF THE CIVIL  
RIGHTS ACT OF 1964 TO BE EXECUTED BY SUBSTANTIAL  
AND DIRECT BENEFICIARIES OF EDA PUBLIC WORKS  
AND TECHNICAL ASSISTANCE**

## NAME OF PROJECT

Port Industrial Area  
Sanitary Sewerage System

## CITY AND STATE

Tacoma, Washington

## PROJECT NUMBER

The undersigned hereby agrees that as a substantial and direct beneficiary of technical assistance or of a public works and development facility receiving Federal financial assistance from the Economic Development Administration in the above project, it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the Department of Commerce Regulations (hereinafter referred to as the "Regulations") issued thereunder, a copy of which is attached hereto. To that end, the undersigned hereby agrees and assures that no person in the United States shall on the ground of race, color, or national origin be excluded from participating in, be denied the benefits of, or be otherwise subject to discrimination in connection with the undersigned's activities as a direct and substantial beneficiary of the aforesaid assistance.

Accordingly, and without limiting the above, the undersigned agrees that:

1. It will not engage in any of the discriminatory conduct prohibited by Sections 8.4 and 8.6(b)(1), (2), and (3) of the Regulations.
2. In its employment practices, it will act in conformity with Sections 8.4(c) and 8.5(b)(2) of the Regulations.
3. It will provide the information required by or pursuant to the Regulations in order to ascertain compliance with the nondiscrimination requirements thereof and these assurances, and it will otherwise assist and cooperate actively with EDA in obtaining and enforcing compliance with the Regulations.
4. If it is an educational institution, it will comply with Section 8.5(b)(9) of the Regulations.
5. Its failure to comply with these assurances shall constitute a breach thereof, whereby the Government may take any enforcement or remedial action provided in the Civil Rights Act of 1964 and the Regulations or otherwise provided by law.
6. These assurances shall be binding upon the undersigned, its grantees, assignees, transferees, lessees, and successors in interest, for such time as it or they shall continue to receive, utilize or enjoy the benefit of the assistance provided by or through this project.

The undersigned acknowledges that it has received and read the Department's Regulations.

Total number of present employees \_\_\_\_\_.

This assurance is made and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in \_\_\_\_\_.

\_\_\_\_\_  
(Beneficiary)By \_\_\_\_\_  
(Type name)\_\_\_\_\_  
(Address)\_\_\_\_\_  
(Title)\_\_\_\_\_  
(Telephone No.)\_\_\_\_\_  
(Signature)

ZID1040033

(Over)

I, \_\_\_\_\_, as Secretary of \_\_\_\_\_, Inc., a corporation  
organized and existing by virtue of the laws of the State of \_\_\_\_\_; or as \_\_\_\_\_  
of the State of \_\_\_\_\_; or as \_\_\_\_\_ of the county or municipality of \_\_\_\_\_  
in the State of \_\_\_\_\_, do hereby certify that the foregoing officer  
who executed this assurance has full authority to bind the Beneficiary. In witness whereof I set my hand and affix  
the corporate, state, or municipal seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Secretary or other Official)

(SEAL)

ZID1040034

## CERTIFICATE OF NON-RELOCATION

To be Executed by Applicants for Commercial and Industrial Loans Under Titles II, and IV and Commercial and Industrial Users of Facilities Assisted Under Titles I, II, and IV.

**NOTE** - The Public Works and Economic Development Act of 1965 prohibits EDA from making loans grants which will have the effect of assisting an employer in moving jobs from one area to another. An expansion of an existing business to a new location may be assisted if such an expansion will not cause unemployment in other areas where the business conducts operations, or will not enable contractors or subcontractors to undertake contracts or subcontracts heretofore performed elsewhere. the performance of which would result in an increase of unemployment at the previous location of such work. Execution of the following Certificate is necessary for EDA to determine the eligibility of the subject project in this regard.

Project Sanitary Sewerage System , Port Industrial Area  
(Name of Project) (Location)  
Tacoma, Washington

I certify that I am \_\_\_\_\_ of \_\_\_\_\_  
(Official Title) (Name of Company)

\_\_\_\_\_ and that it is not the intention of said company, or any affiliate, subsidiary or other business entity under direct, indirect or common control with said company to relocate any present operation as a result of the above designated project; that neither said company, nor any affiliate, subsidiary, or other business entity under direct, indirect or common control with said company, has discontinued, liquidated, or curtailed during the past 24 months any production unit similar to that which will be located at

\_\_\_\_\_, \_\_\_\_\_ ; that to the extent  
(City) (State)  
said project is undertaken to assist in the expansion of the operations of said company through the establishment of a new branch, affiliate or subsidiary of said company, such expansion will not result in an increase of unemployment in the area of original location or in any area where said company or any affiliate, subsidiary or other business entity under direct, indirect or common control now conducts business operations; that any such expansion is not being undertaken with the intention of closing down or curtailing any existing operations of said company or any affiliate, subsidiary or other business entity under direct, indirect or common control with said company; and that such project is not being undertaken with the intention of performing as contractor or subcontractor work heretofore performed by other contractors or subcontractors, the transfer of which would result in the transfer of jobs from one location to another and an increase in unemployment at the previous location of such work.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

Note - Section 710 (a) of the Public Works and Economic Development Act of 1965 provides that: "Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under section 101, 201, 202, or 403 or any extension thereof by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both."

ZID1040035

USCOMM-DC 30686-P00



## STATEMENT ON NON-RELOCATION

All programs and benefits under the Public Works and Economic Development Act, including loans, grants, technical assistance, and training will be administered with strict adherence to the policy of denying assistance to businesses which are seeking to relocate or which relocated in the recent past.

Section 2, the Declaration of Purpose of the Public Works and Economic Development Act states that under the provisions of this Act new employment opportunities should be created by developing and expanding new and existing facilities and resources rather than by merely transferring jobs from one area of the United States to another.

Section 202(b)(1) of the Public Works and Economic Development Act provides that EDA financial assistance shall not be extended to assist (1) industrial or commercial establishments relocating from one area to another, (2) expansions which would result in unemployment in any area where the business entity involved conducts its operations or (3) contractors or subcontractors whose purpose it is to seek the transfer of contract work presently performed at another location.

It is the policy of EDA to construe the general prohibition against relocation in Section 2 as applicable to all sections of the Act. The specific language in Section 202 (b)(1) provides further guidance to EDA in carrying out the policy of Section 2 and is used by EDA as a guide in rendering assistance under other sections of the Act. Applicants for development facility loans and grants or for supplementary grants must therefore assure EDA, prior to receiving financial assistance, that they are not constructing the facilities for the purpose of serving a relocated business firm, that they are not then negotiating with a relocating firm, and that they have no intention of using the project to induce industries to relocate into their areas. Similar assurances will be required from industrial and commercial users of development facilities if such facilities are constructed primarily or substantially for their use.

It is not always easy to identify what constitutes the relocation of a business enterprise and its associated jobs. In some instances the movement of machinery and equipment may in practical effect be the movement of the business enterprise. In other instances the business enterprise is more appropriately identified and characterized by a trade name, customer lists, and other intangible assets. EDA will carefully examine all transfers of ownership, liquidations and curtailment of operations which bear any relationship to the proposed establishment of a new enterprise. In all cases, the controlling consideration will be whether the effect is the relocation of jobs from one area to another.

Ordinarily the phrase "from one area to another" as used in connection with relocations means from one labor area to another. Nevertheless, EDA will consider in evaluating a project any adverse effects which may indirectly result from a relocation even though the new location may be wholly within the boundaries of the same labor area or the same redevelopment area or district.

The limitation on assisting in relocations is applied both to prospective moves and those made in the recent past. For instance, EDA will not assist a relocated industry in a new location even though the withdrawal or curtailment of employment at the previous place of business was substantially completed at the time of the request for assistance from EDA. Any such earlier relocation, a part of which was carried out within 24 months prior to an application for EDA assistance, shall be subject to the rebuttable presumption that the EDA assistance requested is causally related to the relocation.

EDA can assist in true expansions through the establishment of new branches, affiliates, or subsidiaries, provided that such expansion will be carried out and operated without increasing unemployment at other places of business of the enterprise. To give effect to this limitation, EDA will inquire into the undertakings and operations of affiliated enterprises or enterprises under common control with the particular business which is to be benefited by the proposed project.

In considering whether a proposed expansion will result in an increase in unemployment at other facilities of a business enterprise, EDA will consider, among other things, traditional as well as current operating levels of employment, changes in demand for worker skills at the existing facilities, changes in capital investment at the existing facilities, and any relationship the proposed expansion may have upon the future prospects for operation of such existing facilities.

**ASSURANCE OF JOB OPPORTUNITIES FOR THE UNEMPLOYED**  
(See Explanatory Statement on back of form)

To be Executed by Business Development Loan Applicants and by Employers cited in Public Works Projects as Beneficiaries of Public Works Facilities under Title I and II of the Public Works and Economic Development Act of 1965.

Project description Sanitary Sewerage System

Project location Port Industrial Area, City of Tacoma, Washington

Pierce County

**STATEMENT**

The undersigned recognizing the purpose of the Public Works and Economic Development Act of 1965 as described on the reverse side of this form, represents to the Economic Development Administration the intention to give preferential consideration for employment, wherever possible, to the long-term unemployed and underemployed residing in the project area, in connection with the above identified project and the undertaking assisted thereby, and that the data submitted herein is correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Name of Applicant or Beneficiary)

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Address of Applicant or Beneficiary)

\_\_\_\_\_  
(Telephone)

<b>FOR OFFICIAL USE ONLY</b>
Project No.
State-County Code
S.I.C. No.

ZID1040037

**APPLICANT OR BENEFICIARY FIRM'S ESTIMATE OF THE  
NEW JOB OPPORTUNITIES CREATED BY THIS PROJECT**

JOBS OR JOB SKILLS (List by category)  (A)	EXISTING JOBS		PROJECTED JOBS			TRAINING PROGRAMS		
	TOTAL (B)	MINORITY* (C)	TOTAL (D)	MINORITY* (E)	HIRING DATE (F)	CODE (G)	NO. OF TRAINEES (H)	MINORITY* (I)
OFFICIALS AND MANAGERS								
PROFESSIONALS								
TECHNICIANS								
SALE WORKERS								
OFFICE AND CLERICAL								

ZID1040038

OPERATIVES

LABORERS (UNSKILLED)

SERVICE WORKERS

OTHERS (Specify)

\* For the purpose of this form, the following are considered minority persons: Negro, Spanish-American, Oriental, American Indian, Eskimo, Aleut.

Column G

Designate type of training program as follows:

Manpower Development Training Act - MDTA

On-the-job Training - OJT

Apprenticeship - A

Other - O

None - X

ZID1040039

## ASSURANCE OF JOB OPPORTUNITIES FOR THE UNEMPLOYED

All programs and benefits under the Public Works and Economic Development Act of 1965, including loans, grants, technical assistance, and training will be administered with strict adherence to the policy of providing jobs wherever possible for the unemployed and underemployed residing in the designated areas eligible for EDA assistance.

Sec. 2, the Declaration of Purpose of the Public Works and Economic Development Act, states that the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development.

Title I, Sec. 101(a)(1)(A) of the Act provides that EDA can assist when, "The project for which financial assistance is sought will directly or indirectly (i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities. (ii) otherwise assist in the creation of additional long-term employment opportunities for such area, or (iii) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964".

It is the policy of EDA to give the highest consideration to those projects which will provide jobs for the unemployed and underemployed residing in the project area.

Employers benefiting from EDA-assisted projects, or users of EDA-assisted public facilities, must assure EDA that they will wherever possible give preferential consideration for employment to the unemployed and underemployed residing in the designated area in which the project is located.

It may not always be possible to fill existing job vacancies from the ranks of the unemployed. In order to operate their businesses successfully, employers may seek qualified and skilled workers through their own established methods. However, consideration must be given to the unemployed labor force which qualifies the distressed area for EDA designation and thus enables such area to apply for Federal Loans and/or grants under this Act.

There exist established local, State, and Federal agencies and programs to assist employers in hiring and training qualified employees. The State Employment Services, State, and local vocational schools, and Federally assisted skill centers are specifically charged with collecting and recording pertinent data and available job skills and will assist in evaluating and preparing the unemployed to fill job vacancies.

Employers who are beneficiaries or users of EDA-assisted projects, when preparing their present and future employment plans and programs, should discuss such plans and programs with the appropriate agencies cited above before offering employment to workers residing outside the designated area.

In order to ensure that maximum feasible employment opportunities are made available to the unemployed residing in the project area, EDA requires applicants for public facility loans and/or grants to submit executed Form ED-612 and to obtain and submit to the government, together with the application, properly executed Forms ED-612 from all employers who are cited as beneficiaries or users of EDA-assisted projects.

EDA also requires each Business Development Loan applicant to submit to the Government, together with the application for financial assistance, a properly executed Form ED-612.

Under the regulations of the Department of Commerce implementing Title VI, recipients of EDA business loan assistance (including their lessees, users, and operators), and substantial and direct beneficiaries of Public Works projects cited as such in the application or as determined by the Assistant Secretary are required to take affirmative action "to ensure that applicants are employed, and employees are treated during employment without regard to their race, color, or national origin." Although all public works grant and loan recipients and substantial beneficiaries are covered by Title VI, those substantial beneficiaries who as a result of the project will construct a new facility at which they intend to employ 50 or more employees, or intend to expand the work force at the present facility by adding 50 or more employees are required to submit an affirmative action program. The Form ED-612 when properly executed will be considered the first part of an affirmative action program.

Reprinted from the Federal Register,

Saturday, January 9, 1965 (30 F.R. 305),

as corrected on Tuesday, January 19, 1965 (30 F.R. 616)

## UNITED STATES DEPARTMENT OF COMMERCE

### Title 15—COMMERCE AND FOREIGN TRADE

#### Subtitle A—Office of the Secretary of Commerce

#### PART 8—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF COM- MERCE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of Title 15 CFR is hereby  
amended by adding the following new  
Part 8.

Subpart A—General Provisions; Prohibitions;  
Nondiscrimination Clause; Applicability to Pro-  
grams

##### Sec.

- 8.1 Purpose.
- 8.2 Application of this part.
- 8.3 Definitions.
- 8.4 Discrimination prohibited.
- 8.5 Nondiscrimination clause.
- 8.6 Applicability of the regulations to De-  
partment programs.

##### Subpart B—General Enforcement

- 8.7 Cooperation; compliance reports and  
reviews; access to records.
- 8.8 Complaints.
- 8.9 Intimidatory or retaliatory acts pro-  
hibited.
- 8.10 Investigations.
- 8.11 Procedures for effecting compliance.
- 8.12 Hearings.

##### Sec.

- 8.13 Decisions and notices.
- 8.14 Judicial review.
- 8.15 Effect on other laws; supplementary  
instructions; coordination.

**Authority:** The provisions of this Part 8  
are issued under sec. 602, 75 Stat. 252 (Civil  
Rights Act of 1964).

**Subpart A—General Provisions; Pro-  
hibitions; Nondiscrimination Clause;  
Applicability to Programs**

##### § 8.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department of Commerce.

##### § 8.2 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the federally-assisted programs listed in Appendix A to this part and as said Appendix may be amended. They apply to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date.

(b) This part does not apply to (1)

any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 8.4(c). The fact that a program is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to the list by notice published in the FEDERAL REGISTER.

##### § 8.3 Definitions.

(a) "Department" means the Department of Commerce, and includes each of its primary organization and equivalent other units.

(b) "Secretary" means the Secretary of Commerce.

(c) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(d) "Person" means an individual in the United States who is or is eligible to be a participant in or a beneficiary of any program which receives Federal fi-

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financial assistance, and includes an individual who is an owner or member of a firm, corporation, or other business or organization which is or is eligible to be a participant in or a beneficiary of such a program. Where a primary objective of a statute authorizing Federal financial assistance to a program is to provide employment, "person" includes employees or applicants for employment of a recipient under such program.

(e) "Responsible Department official" with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department who by law or by delegation has the principal authority within the Department for the administration of a law extending such assistance. It also means any officials so designated by due delegation of authority within the Department to act in such capacity with regard to any program under this part.

(f) "Federal financial assistance" includes (1) grants, loans, or agreements for participation in loans, of Federal funds, (2) the grant or donation of Federal property or interests in property, (3) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or in property in which the Federal Government has an interest, without consideration, or at a nominal consideration, or at a consideration which is reduced, for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient, (4) waiver of charges which would normally be made for the furnishing of Government services, (5) the detail of Federal personnel, (6) technical assistance, and (7) any Federal agreement, arrangement, contract, or other instrument which has as one of its purposes the provision of assistance.

(g) "Program" includes any program, project, or activity for the provision of services, financial aid, property or other benefits to persons, or for the provision of facilities for furnishing services, financial aid, property, or other benefits to persons, whether provided by the recipient of Federal financial assistance or by others through contracts or other arrangements with the recipient, or whether provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, facilities or other resources provided to meet the conditions under which Federal financial assistance will be received. It includes programs supported by: (1) Grants, loans or contracts to recipients which make further grants or loans to, or contracts with, participants in the program or to persons who are the ultimate beneficiaries, (2) grants, loans or contracts to recipients to help finance the provision of services to the ultimate beneficiaries, (3) grants, loans or contracts to help finance the construction or operation of public roads, public works, or other facilities, to provide benefits, aid or services to the ultimate beneficiaries, (4) Federal financial assistance where a primary objective of the assistance is to provide employment, (5) any other Federal financial assistance in which the immediate recipient of the

assistance is not the sole or exclusive beneficiary of the Congressional purpose.

(h) "Facility" includes all or any portion of structures, equipment, vessels, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(i) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, or any public or private business or other agency, institution, organization, or other entity, or any individual, in any State, who applies for Federal financial assistance, or to whom Federal financial assistance is extended directly or through another recipient for or in connection with any program. Recipient further includes any successors, assigns, or transferees of any kind of the recipient, and those parties so designated for each program in § 8.6, but does not include any ultimate beneficiary under any program.

(j) "Primary recipient" means any recipient which is authorized or required to extend or distribute Federal financial assistance to another recipient for the purpose of carrying out a program.

(k) "Applicant" means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

#### § 8.4 Discrimination prohibited.

(a) General. No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) Specific discriminatory acts prohibited. (1) A recipient of Federal financial assistance, or other party subject to these regulations under any program to which this part applies, shall not participate, directly or through contractual or other arrangements, in any act or course of conduct which, on the ground of race, color or national origin:

(i) Denies to a person any service, financial aid, or other benefit provided under the program;

(ii) Provides any service, financial aid, or other benefit, to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subjects a person to segregation or separate treatment in any matter related to his receipt of any such service, financial aid, property, or other benefit under the program;

(iv) Restricts the person in any way in the enjoyment of services, facilities, or any other advantage, privilege, property, or benefit provided to others under the program;

(v) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must

meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Denies a person an opportunity to participate in the program through the provision of property or services or otherwise, or affords him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section);

(vii) Denies to the person the same opportunity or consideration given others to be selected or retained or otherwise to participate as a contractor or subcontractor when a program is applicable thereto.

(2) A recipient, or other party subject to this part under any program, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program, shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect any persons of a particular race, color, or national origin.

(3) As used in this section, the term "service, financial aid, or other benefits provided under a program receiving Federal financial assistance" shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided or connected with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) Employment practices. Where a primary objective of the Federal financial assistance to a program, to which this part applies is to provide employment, a recipient shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipient shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114. Federal financial assistance to programs under laws funded or administered by the Department

ment which have as a primary objective the providing of employment are set forth in Appendix A.11 of this part.

#### § 8.5 Nondiscrimination clause

(a) *Applicability.* Every application for, and every grant, loan or contract authorizing approval of, Federal financial assistance to carry out a program and to provide a facility subject to this part, and every modification or amendment thereof, shall, as a condition to its approval and to the extension of any Federal financial assistance pursuant thereto, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by or pursuant to this part. The assurances shall be set forth in a nondiscrimination clause. The responsible Department official shall specify the form and contents of the nondiscrimination clause for each program as appropriate.

(b) *Contents.* Without limiting its scope or language in any way, a nondiscrimination clause shall contain, where determined to be appropriate, and in an appropriate form, reference to the following assurances, undertakings, and other provisions:

(1) That the recipient or other party subject to this part will not participate directly or indirectly in the discrimination prohibited by § 8.4, including employment practices when a program covering such is involved.

(2) That when employment practices are covered, the recipient or other party, subject to this part will (i) in all solicitations or advertisements for employees, select by or for the recipient, state that qualified applicants will receive consideration for employment without regard to race, color or national origin; (ii) notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, of the recipient's commitments under this section; (iii) post the nondiscrimination clause and the notice to labor unions in conspicuous places available to employees and applicants for employment; and (iv) otherwise comply with the requirements of § 8.4(c).

(3) That in a program involving continuing Federal financial assistance, the recipient thereunder (i) will state that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, or state the extent to which it is not, at the time the statement is made, so conducted, and (ii) will provide for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that all recipients of Federal financial assistance under such program and any other parties connected therewith subject to this part will comply with all requirements imposed by or pursuant to this part, including methods of administration which give reasonable assurance that at any noncompliance indicated in the statement in subdivision (i) of this subparagraph will be corrected.

(4) That the recipient agrees to secure the compliance or to cooperate actively with the Department to secure the compliance by others with this part and the nondiscrimination clause as may be directed under an applicable program. For instance, the recipient may be requested by the responsible Department official to undertake and agree (i) to obtain or enforce, or to assist and cooperate actively with the responsible Department official in obtaining or enforcing, the compliance of contractors, subcontractors, lessees, and other parties subject to this part with the nondiscrimination required by this part and their respective contracts; (ii) to insert appropriate nondiscrimination clauses in the respective contracts with such parties; (iii) to obtain and to furnish to the responsible Department official such information as he may require for the supervision or securing of such compliance; (iv) to carry out sanctions for noncompliance with the obligations imposed upon contractors and other parties subject to this part; and (v) to comply with such additional provisions as the responsible Department official deems appropriate to establish and protect the interests of the United States in the enforcement of these obligations. In the event that the cooperating recipient becomes involved in litigation with a non-complying party as a result of such Departmental direction, the cooperating recipient may request the Department to enter into such litigation to protect the interests of the United States.

(5) That in the case of a transfer of real property, the instrument effecting the transfer shall contain (i) a condition, coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition, and (ii) a covenant running with the land. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the responsible Department office may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title so long as the lien of such mortgage or other encumbrance remains effective.

(6) That a recipient shall not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly.

(7) Provisions specifying the extent to which like assurances will be required of subcontractors, contractors and subcontractors, lessees, transferees, successors in interest, and other participants in the program.

(8) Provisions which give the United States a right to seek judicial enforcement of the assurance.

(9) In the case where any assurance is required from a recipient institution of higher education or any other institution, insofar as the assurance relates to the institution's practices with re-

spect to admission of students or other treatment of persons participating in the program or its services or other benefits, the assurance shall be applicable to the entire institution unless the recipient establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is or is sought to be provided, or the beneficiaries of or participants in such program. If in any such case the assistance is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(10) It shall be provided that, where the Federal financial assistance is to provide: (i) real property or structures thereon, the assurances shall be in effect for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits; (ii) personal property, the assurances shall be in effect for as long as the recipient retains ownership or possession of the property; and (iii) any other type or form of assistance, the assurances shall be in effect for the duration of the period during which Federal financial assistance is extended to the program.

#### § 8.6 Applicability of the regulations to Department programs

The following examples illustrate the applicability of this part to programs which receive or may receive Federal financial assistance administered by the Department. The fact that a particular program is not listed does not indicate that it is not covered by this part. The discrimination referred to is that described in § 8.4 against persons on the ground of race, color, or national origin.

(a) *Assistance programs which support highway construction and related projects.* In programs receiving Federal financial assistance for highway construction, acquisition of right-of-way and related projects, discrimination is prohibited by recipients in the selection and retention of contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, who participate in any such projects. Such contractors and subcontractors include, without limitation, those whose services are retained by contract for or incidental to planning, research, highway safety, engineering, acquisition of right-of-way, property management, and for any other commitments by recipients under which they are eligible for Federal-aid reimbursement. In addition to those contractors and subcontractors through the second-tier engaged in the actual highway construction work and those who supply the equipment and materials therefor. In addition, there shall be no discrimination against the traveling public and business users of the federally assisted highways in their ac-



cess to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed on, over, or under the space of the right-of-way of such highways in which the recipient has any interest, including a reversionary one.

(b) *Assistance programs to support area redevelopment projects.* (1) In loan and loan participation programs under which individuals and business entities receive Federal financial assistance to purchase or develop land, facilities, machinery or equipment for industrial or commercial usage, discrimination by recipients is prohibited (i) in the letting of contracts or other arrangements for the designing, engineering, acquisition, construction, rehabilitation, conversion, enlargement, installation, occupancy, use, maintenance, leasing, subleasing, sales, or other utilization or disposition of the property or facilities purchased or financed in whole or in part with the aid of the Federal financial assistance; (ii) in the acquisition of goods or services, or the production, preparation, manufacture, marketing, transportation, or distribution of goods or services in connection with the project or its operations; (iii) in the on-site operation of the project or facility; (iv) in all services or accommodations offered to the public in connection therewith; and (v) in their employment practices (as defined in § 8.4(c)). For these programs, a recipient by definition also includes the borrowers and all identifiable business entities which are intended to lease, use or otherwise operate the project or facility assisted by the loan.

(2) In loan or grant programs under which States, their subdivisions, or private or public organizations receive Federal financial assistance to finance the purchase or development of land for public facility usage, or the construction, rehabilitation, alteration, expansion or improvement of public facilities, discrimination by recipients is prohibited as set forth in subparagraph (1) of this paragraph, but includes the employment practices (as defined in § 8.4(c)) only of any business entity which is intended to use or otherwise receive the substantial and direct benefit of the public facility. For these programs, a recipient by definition also includes the borrower or grantee and all identifiable business entities intended to be substantial and direct beneficiaries of a public facility assisted or provided by the loan or grant.

(3) In programs providing any form of technical assistance deemed useful to alleviate or prevent conditions of excessive unemployment or underemployment in areas of any State, discrimination by recipients of such technical assistance is prohibited as described in subparagraph (1) of this paragraph in connection with any land, buildings, machinery, equipment, improvements, facilities, goods, services, or the other operations of any identifiable business entities which are intended to be the direct and substantial beneficiaries of such technical assistance. Such technical assistance includes the results of studies evaluating the needs of and developing potentials for eco-

nomie growth of areas of any State. Further, any party which under the program disseminates any form of technical assistance shall not discriminate in such dissemination. For this program, a recipient of technical assistance by definition also includes the sponsoring applicant and all identifiable business entities intended to be substantial and direct beneficiaries of the technical assistance applied for.

(c) *Assistance programs to support the training of students.* A current example of such programs is the assistance received by State maritime academics or colleges, by contract, of facilities (vessels), related equipment, and funds to train merchant marine officers. In this and other student training programs, discrimination which is prohibited by recipients includes discrimination in the selection of persons to be trained and in their treatment by the recipients in any aspect of the educational process and discipline during their training, or in the availability or use of any academic, housing, eating, recreational, or other facilities and services, or in financial assistance to students furnished or controlled by the recipients or incidental to the program. In any case where selection of trainees is made from a predetermined group, such as the students in an institution or area, the group must be selected without discrimination.

(d) *Assistance program to support mobile trade fairs.* In programs under which operators of mobile trade fairs, using U.S. flag vessels and aircraft and designed to exhibit and sell U.S. products abroad, receive technical and financial assistance, discrimination by recipients is prohibited in the selection or retention of any actual or potential exhibitors, or in access to or use of the services or accommodations by, or otherwise with respect to treatment of, exhibitors or their owners, officers, employees, or agents.

(e) *Assistance programs to support business entities eligible for trade adjustment assistance.* In programs under which eligible business entities receive any measure or kind of technical, financial or tax adjustment assistance because of or in connection with the impact of United States international trade upon such business, discrimination is prohibited by recipients in their employment practices, as defined in § 8.4(c).

(f) *Assistance programs to support research and distribute its results.* In programs under which individuals, educational or other institutions, or business entities receive Federal financial assistance in order to encourage or foster research activities as such, or to obtain thereby technical or other information, products, or services which are to be made available to others, but where such program does not constitute Government procurement of property or services, discrimination is prohibited by recipients with respect to the choice, retention or treatment of any person, including the provision of services or financial aid to them, participating in the research activities, and, further, with respect to their dissemination to any person of the results of the research, whether in the

form of information, products, services, or otherwise. If a research grant is made to an educational institution under which it is expected that students or others will participate in the research as a part of their experience or training, on a compensated or uncompensated basis, there shall be no discrimination in admission of students to, or in their treatment by, that part of the school from which such students are drawn or in the selection otherwise of trainees. The recipient educational institutions will be required to give the assurances provided in § 8.5(b) (2).

(g) *Assistance programs to aid in the operations of vessels engaged in United States foreign commerce.* In programs receiving Federal financial assistance in the form of operating differential subsidies to operators of American-flag vessels used to furnish shipping services in the foreign commerce of the United States, discrimination is prohibited by recipients in soliciting, accepting or serving in any way passengers or shippers of cargo entitled to protection in the United States under the Act. For these programs, a recipient by definition includes the operators of such vessels.

#### Subpart C—General Compliance

##### § 8.7 Cooperation, compliance reports and reviews and access to records.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official timely, complete and accurate compliance reports at such times and in such form and containing such information as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, or under which a recipient is obligated to obtain or to cooperate in obtaining the compliance of other parties subject to this part, such other recipients or other parties shall also submit such compliance reports to the primary recipient or recipient as may be necessary to enable them to carry out their obligations under this part.

(c) *Access to sources of information.* Each recipient or other party subject to this part shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of another who fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

(e) *Compliance review.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

#### § 8.8 Complaints.

(a) *Filing complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official a written complaint. A complaint shall be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official.

#### § 8.9 Intimidatory or retaliatory acts prohibited.

(a) No recipient or other party shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

(b) The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial or other proceeding arising thereunder.

#### § 8.10 Investigations.

(a) *Making the investigation.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient or other party subject to this part, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether there has been a failure to comply with this part.

(b) *Resolution of matters.* (1) If an investigation pursuant to paragraph (a) of this section indicates a failure to comply with this part, the responsible Department official will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 8.11.

(2) If an investigation does not warrant action pursuant to subparagraph

(1) of this paragraph, the responsible Department official will so inform the recipient and the complainant, if any, in writing.

#### § 8.11 Procedures for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual understanding, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 8.5.* If an applicant fails or refuses to furnish an assurance required under § 8.5 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under said paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application or contract therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary pursuant to § 8.13(c), and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (3) the recipient or other party has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other party. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other party to comply with this part and to take such corrective action as may be appropriate.

#### § 8.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 8.11(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph of this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of this right to a hearing under section 602 of the Act and § 8.11(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official or hearing officer unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official, or at his discretion, before a hearing officer.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not incon-

sistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(c) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies named under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 8.13.

#### § 8.13 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing officer such hearing officer shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing officer the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may, on his own motion within 30 days after the initial decision serve on

the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notices of review the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing officer pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 8.12(e) a decision shall be made by the responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Secretary.* Any final decision of a responsible Department official (other than the Secretary) which provides for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may veto it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient delinquent by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this part.

#### § 8.14 Judicial review.

Action taken pursuant to section or of the Act is subject to judicial review as provided in section 603 of the Act.

#### § 8.15 Effect on other laws; supplementary instructions; coordination.

(a) *Effect on other laws.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10625 and 11114 and regulations issued thereunder, or (2) Executive Order 11663 and regulations issued thereunder, or any other regulations or instructions, insofar as such Order, regulation, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Department official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the execution of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 8.12), including the administrative coordination and maintenance of uniformity within the Department and within the Executive Branch of the Government in the application of Title VI and this part to similar programs and in similar situations.

*Effective date.* This part shall become effective on the thirtieth day following the date of their publication in the Federal Register.

Dated: December 23, 1964.

C. D. MARVIN, Jr.,  
Acting Secretary of Commerce

Approved: January 7, 1965.

LUTHER B. JOHNSON

ZID1040046

## Appendix A

Appendix A to the regulations contained in this part is revised and amended to read as follows:

### APPENDIX A

#### I. ASSISTANCE PROGRAMS TO WHICH THESE REGULATIONS APPLY

1. Assistance in connection with the construction of Federal-aid highway systems under Title 23, United States Code (23 U.S.C. 101 et seq.).
2. Assistance under the Highway Beautification Act of 1955 (Public Law 83-283; 79 Stat. 1028).
3. Assistance for construction of highways, supplementary assistance in connection with applicable Federal grant-in-aid programs, and the providing of grants and other funds, under the Appalachian Regional Development Act of 1965 (Public Law 89-4, 79 Stat. 5).
4. Loans, grants, technical and other assistance for public works and facilities, supplementing grant-in-aid programs, private

businesses, and other purposes, including assistance in connection with designated economic development regions, under the Public Works and Economic Development Act of 1955 (Public Law 83-170, 79 Stat. 552), and assistance under its predecessor Area Redevelopment Act (42 U.S.C. 2501 et seq.).

5. Operating differential subsidy assistance to operators of U.S. flag vessels engaged in U.S. foreign commerce (46 U.S.C. 1171 et seq.).

6. Assistance to operate State Maritime Academies and colleges to train merchant marine officers (46 U.S.C. 1201-1206).

7. Grants and other assistance under the State Technical Services Act of 1955 (Public Law 83-162, 79 Stat. 679).

8. Assistance to mobile trade fair operators (48 U.S.C. 1123b).

9. Trade adjustment assistance to eligible U.S. businesses under the Trade Expansion Act of 1962 (19 U.S.C. 1911-1920).

10. Trade adjustment assistance to eligible U.S. businesses under the Automotive Products Trade Act of 1955 (Public Law 83-522, 79 Stat. 1016).

11. Grants to nonprofit institutions or organizations to further or obtain scientific research to be made available to the public or interested businesses or organizations (e.g., 42 U.S.C. 1831-1835).

II. A PRIMARY OBJECTIVE OF THE FINANCIAL ASSISTANCE TO THE PROGRAMS LISTED IN APPENDIX A IS WHICH IS AUTHORIZED BY EACH OF THE FOLLOWING STATUTES IS TO PROVIDE EMPLOYMENT

1. Public Works and Economic Development Act of 1955, and predecessor Area Redevelopment Act.

2. Appalachian Regional Development Act of 1965.

3. Trade Expansion Act of 1962.

4. Automotive Products Trade Act of 1955.

JAY JANTS,  
Acting Director,  
Office of Equal Opportunity.

FEBRUARY 7, 1966.

[P.R. Doc. 63-1072; Filed, Feb. 10, 1966; 8:35 A.M.]

ZID1040047



# ZIDELL MARINE CORPORATION

3121 S.W. Moody Avenue  
Portland, Oregon 97201  
(503) 228-8691/800-547-9259  
FAX: (503) 228-6750/RCA Telex 283985

October 6, 1992

RECEIVED  
OCT 9 1992

OFFICE OF  
EPA

Richard McAllister, Esq.  
EPA Office of Regional Counsel  
Region 10  
1200 6th Avenue  
Seattle, WA 98101

Re: Zidell Marine Corporation (Formerly Zidell Dismantling)  
EPA Information Request Letter  
Commencement Bay Nearshore/Tideflats Superfund Site

Dear Mr. McAllister:

This confirms our Monday, October 5, 1992 telephone conversation in which you so kindly agreed to a thirty day extension of time for Zidell Marine Corporation (formerly Zidell Dismantling Company) to respond to the EPA's September 15, 1992 information request letter. As this EPA letter was received on September 21, 1992, our initial response was due October 21, 1992. With this thirty day extension Zidell now must respond on or before Friday, November 20, 1992. Your courtesies are sincerely appreciated.

Very truly yours,

ZIDELL MARINE CORPORATION

Richard J. McCain  
Corporate Secretary and  
General Counsel

RJM:djh

ZID1040048



# ZIDELL MARINE CORPORATION

3121 S.W. Moody Avenue  
Portland, Oregon 97201  
(503) 228-8691/800-547-9259  
FAX: (503) 228-6750/HCA Telex 283985

December 28, 1992

RECEIVED  
DEC 31 1992

Richard G. McAllister, Esq.  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
1200 6th Avenue, MS: SO-155  
Seattle, WA 98101

OFFICE OF REGIONAL COUNSEL  
EPA - PORTLAND

Re: Commencement Bay Nearshore/Tideflats Superfund Site  
Confidential Business Information Claim  
Zidell Marine Corporation's Response to EPA's Request  
for Information

Dear Mr. McAllister:

Thank you for your December 7, 1992 letter. After having reviewed your letter and the concerns raised by you during our subsequent telephone conversation, Zidell Marine Corporation hereby withdraws its request that its response to the EPA's September 15, 1992 request for information be considered as confidential. As Zidell Marine Corporation's original November 18, 1992 response letter was marked confidential and on page one specifically asserted confidential status to the information set forth therein, a revised November 18, 1992 response is enclosed identical to the first except that confidential status is not asserted. As the EPA has Zidell's enclosures which were originally submitted with our response, they have not again been copied and are not enclosed herewith.

If you have any questions, please call me.

Very truly yours,

ZIDELL MARINE CORPORATION

Richard J. McCain  
Corporate Secretary and  
General Counsel

RJM:djh  
Enclos.

ZID1040049



# ZIDELL MARINE CORPORATION

3121 S.W. Moody Avenue  
Portland, Oregon 97201  
(503) 228-8691/800-547-9259  
FAX: (503) 228-6750/RCA Telex 283985

November 18, 1992

Ms. Allison Hiltner  
United States Environmental  
Protection Agency  
Region 10 (HW-113)  
1200 Sixth Avenue  
Seattle, WA 98101

Re: Commencement Bay Nearshore/Tideflats Superfund Site, Tacoma, Washington  
EPA Information Request Letter  
Zidell Marine Corporation

Dear Ms. Hiltner:

By your September 15, 1992 letter the EPA requested that Zidell Marine Corporation (formerly Zidell Dismantling Company) respond to several questions concerning prior activities at Tacoma, Washington. Zidell received this request on September 21, 1992 and obtained a 30 day extension of time to respond from Richard McAllister, Esquire with the EPA's Office of Regional Counsel. Our response is, thus, due by November 20, 1992. This letter is Zidell Marine Corporation's response to the EPA's CERCLA Section 104(e) Request for Information.

The following comments correlate with the EPA's Request for Information.

ZID1040050

Ms. Allison Hiltner  
November 18, 1992  
Page 2



1. Zidell Marine Corporation (hereinafter "Zidell") is unable to identify properties by parcel numbers. Zidell Marine Corporation did lease certain properties from the Port of Tacoma in the vicinity of the Hylebos waterway between 1960 and 1984. Enclosed are copies of all leases including addendums which we have found.

Zidell's operating address in Tacoma, Washington was 401 Alexander Avenue, Tacoma, Washington, but this one street address also included the entire former naval shipyard located between the mouth of the Hylebos and Blair waterways on either side of Alexander Avenue and identified the operations of other companies besides Zidell. The Port of Tacoma leased the area generally identified as 401 Alexander Avenue to several companies as well as utilizing this area itself. Even with respect to that portion of the property leased to Zidell, other companies utilized the streets within this leased area. Zidell leased assorted property from the Port of Tacoma between January 11, 1960 and May 3, 1984 when the last leased property was taken back from Zidell by the Port.

After due inquiry, Zidell has no information of ever having pumped oil from an aircraft carrier to, a facility located at 1501 Taylor Way, Tacoma, Washington. Further, Zidell has never had an interest in 1501 Taylor Way, Tacoma, Washington. Mr. Bob Bencze, associate with the Kidder, Matthews & Segner real estate brokerage, telephone (206) 248-7300 which has this property listed for sale, states that 1501 Taylor Way, Tacoma was formerly owned by a lumber or wood company and that no oil tanks are located on the property.

2. All properties leased by Zidell from the Port of Tacoma are identified by the enclosed leases. Other than what is set forth in these leases, Zidell has no present information concerning these properties' descriptions. With respect to subpart (d), we are only able to locate one sublease agreement, that being an agreement dated May 1, 1976

ZID1040051





between Zidell and Pan Alaska Fisheries, Inc. for a portion of building 203. A copy of this rental agreement is also enclosed.

3. This question is not applicable as Zidell was never an owner of real property in Tacoma.
4. Copies of all leases which Zidell is able to locate are enclosed. These leases indicate the dates in which they were in effect. Note that Zidell did not continuously lease all property in which it might have had an interest for the entire time it was in Tacoma, Washington. Rather, leased parcels changed periodically. Zidell's initial lease of property from the Port of Tacoma was dated February 19, 1960 and effective January 11, 1960. The Port of Tacoma formally retook possession from Zidell of the Zidell leased property effective May 3, 1984; Zidell had actually left the Port of Tacoma the previous year.
- 5(a) Copies of maps and diagrams of individual leased property are sometimes attached to the leases. Also enclosed are copies (i) of an Industrial Yard Tenant Location blueprint, revised October 4, 1971, showing the general area indicating parcels Zidell apparently then leased as well as properties others leased, and (ii) of a 1989 Industrial Yard building location drawing of the head of Alexander Avenue between the Hylebos and Blair waterways Zidell obtained from the Port of Tacoma.
- 5(b) Zidell files include other blueprints of the general vicinity of the property and of floor plans of particular buildings leased by Zidell from the Port of Tacoma which are available for the EPA's review in Zidell's Portland, Oregon offices.
- 5(c) Zidell believes that the Port of Tacoma should have extensive files in this regard.
- 5(d) Zidell does not believe that it leased any intertidal or submerged portions of marine

ZID1040052

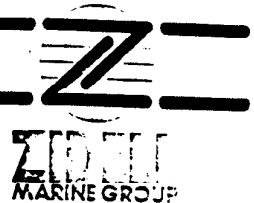


waterways or nearshore areas. If it had, such would be indicated by the attached leases.

6. Zidell's activities on the property leased from the Port of Tacoma involved only two activities which were (a) ship dismantling, and (b) barge building. Each of the following subparts of this question number 6 are answered with respect to both activities.

- 6(a) Mr. Jack Zidell, Vice President was the titular head of Zidell activities in Tacoma from 1960 through 1984. Mr. Zidell is presently still with Zidell at 3121 S.W. Moody Avenue, Portland, Oregon, 97201. In actuality, Mr. Al Neumeister was in charge of ship dismantling when Zidell first began operations in 1960. Mr. Neumeister is now deceased. Mr. Neumeister was succeeded as superintendent of ship dismantling by Mr. Raymond Gobel, who is also now deceased. Mr. Irvin Frankel supervised barge building activities throughout most, if not all, of the time Zidell built barges. Zidell believes Mr. Frankel still resides in the Seattle/Tacoma area.
- 6(b) Zidell dismantled ships between 1960 and the mid-1970's. Zidell built barges from the mid to late 1970's through 1983. The exact time periods on each leased property will be shown by the enclosed leases.
- 6(c) The "raw materials" associated with both barge building and ship dismantling are essentially the same. These include steel, brass, wood, oxygen and natural gas. Barge building also included painting of barges which was done by independent contractors.
- 6(d) Process equipment is likewise similar for both activities and includes cranes, cutting torches, fork lifts, front end loaders, slings, hooks, sledge hammers,

ZID1040053



crowbars, pry bars, welding equipment, and the like.

- 6(e) Zidell is not aware of exactly what would be a byproduct or waste of ship dismantling and barge building. Zidell dismantled ships for profit; therefore, Zidell disposed by sale of everything possible generated from ship dismantling activities. This included, but was not necessarily limited to, scrap iron, non-ferrous metal scrap, wood, fire hoses, used oil and other sundry items obtained from the ship dismantling process. Zidell operated a store at Tacoma where sundry items obtained from ships could be purchased, sold scrap generated from the ship dismantling process, sold used oil which may have been found on the dismantled ships and disposed of waste through disposal services. Examples of waste disposed of through disposal services included asbestos which was placed in plastic bags, tagged and removed by a Tacoma disposal service. It is possible in dismantling U.S. Navy vessels, that transformers would have been aboard these vessels. Zidell has no knowledge of whether these transformers, if any, contained PCB's. Assuming Zidell encountered transformers, they would have been sold with the scrap metal. Zidell has no record of the amount or volume of any product it sold from Tacoma, nor of having any type of waste water or other disposal permit. Mr. Jack Zidell believes that at one time Zidell had a waste water permit, but Zidell has no record of such permit.

Lubercating oils, diesel fuels and other used oil which may have been recovered from ships were sold by Zidell to recyclers or users. Mr. Jack Zidell recalls one specific sale of 800,000 gallons of used marine oil sold to Fletcher Oil Company, also then of Tacoma, Washington.

- 6(f) Zidell is not aware of any non-reclaimable materials including but not limited to still bottoms or waste water treatment sludges except as identified in 6(e)

ZID1040054



above. It was Zidell's practice to dispose of everything as described in response to question 6(e) above. Disposal by sale included sludge which may have been found and removed from vessels which, like oil, was sold to recyclers who were able to recover oil from the sludge.

- 6(g) To a large extent this question is answered by Zidell's response to 6(e) above. In addition, there was a tank for used oil removed from vessels located adjacent to Shipway No. 1 into which Zidell would pump oil which was subsequently removed by recyclers to whom it was sold. This tank, which was surrounded by a steel berm, was sold by Zidell to a Mr. Walker who then ran Coast Engine prior to Zidell's leaving the property in 1983. Otherwise, oil removed from vessels was pumped directly into recyclers' tanks or into barges for transport to users or to the oil recyclers' facilities.
- 6(h) There were no such formal procedures.
- 6(i) Zidell is not aware of what records the EPA may be concerned with. Almost all Zidell Tacoma records were destroyed when Zidell left Tacoma in 1983. A very few records were transferred to storage in Portland, Oregon from which Zidell is attempting to respond to these questions. Zidell is not aware of any records relating to storage treatment or disposal practices of any item that could be considered a byproduct or waste.
- 6(j) The only substances which Zidell believes could presently be construed to be hazardous substances were asbestos and PCB's. See 6(e) above for handling by Zidell.
7. (a) through (f). Zidell's knowledge of any sewer line, drain, ditch or tributary is limited to the extent such might be indicated on the enclosed leases. Zidell

ZID1040055

has found some correspondence from the City of Tacoma relating to sanitary sewage facilities and solid waste. This correspondence, copies of which are enclosed, includes:

- (i) March 22, 1971, Port of Tacoma letter to Zidell;
- (ii) August 16, 1974, Port of Tacoma letter to Zidell, re: Industrial Yard Storm Sewers;
- (iii) March 14, 1983, City of Tacoma Department of Public Works letter with User Survey to Zidell concerning Industrial Pretreatment Program;
- (iv) May 9, 1983, City of Tacoma Department of Public Works letter to Zidell re: Industrial Waste Water Pretreatment Program User Survey;
- (v) May 12, 1983, Zidell letter to City of Tacoma Department of Public Works indicating Zidell was then tied into the Port of Tacoma's sanitary system; and
- (vi) Undated City of Tacoma Public Works Department's letter concerning grant application for sanitary sewage facility funding.

8. Except to the extent that it might be addressed by the above correspondence or above referenced leases, all of which are endorsed, Zidell has no knowledge of surface water run off. Therefore, Zidell is unable to respond further to this request.

ZID1040056

9. Zidell is aware of one or possibly two underground gasoline tanks located in the vicinity of building 544 from which motor vehicles were fueled. Note, also, that the 1981 lease between Zidell and the Port of Tacoma refers to Port owned underground storage tanks. Addendum No. 1 to this lease, which is also enclosed, is an indemnification agreement whereby the Port indemnifies Zidell from any liability resulting from these underground oil storage tanks.
10. Not applicable.
11. Zidell placed concrete blocks on the water's edge of the bank between Piers No. 23 and No. 24 adjacent to Commencement Bay as ballast, which served to stabilize the bank. Zidell at one time also leased a piece of property from the Port of Tacoma west of Alexander Avenue and north of 11th Street. Within this leased parcel, which Zidell used for storage of equipment and which was then dirt property, Zidell stabilized two road beds by placing small rock solidified by oil; this parcel, which has now been completely capped by blacktop, was not adjacent to either the Hylebos or Blair waterways.
12. Mr. Jack Zidell recalls that he was once told by someone from the Port of Tacoma that a small oil tank or large oil can had been tipped over spilling an unknown amount of oil which was subsequently cleaned up and placed back into the oil container. Zidell is not aware of the date, quantity or cause of this container tipping over.

Mr. Jack Zidell also recalls that sometime in the 1970's when Zidell was pumping oil from a ship being dismantled to a barge, a quantity of oil spilled into the Hylebos waterway. On this occasion, booms were placed around the oil and an independent environmental cleanup contractor, perhaps Crowley

ZID1040057

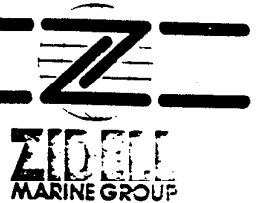
Environmental, cleaned up the oil spill. No record of this spill or cleanup now exist at Zidell.

As noted in response to question 11, oil was used to solidify small ballast rock for two roadways within one leased parcel of property.

Zidell is not aware of any enforcement orders, inspection reports, investigative reports or permits on any of the above incidents.

13. Mr. Jack Zidell recalls that Hooker Chemical (now Occidental Chemical) had problems with releases of some sort on its property adjacent to the Hylebos or into the Hylebos waterway itself. Mr. Zidell also recalls that the Port of Tacoma sunk test pipe on the property Zidell leased from the Port adjacent to the Hooker Chemical/Occidental Chemical property to determine if contamination was leaching onto the Port's property.
14. Except as noted in responses 12 and 13 above, Zidell is not aware of any environmental investigations conducted by anyone on any property Zidell leased from the Port of Tacoma.
15. For all property leased from the Port of Tacoma, its condition was the same at the end of the lease as at the beginning, normal wear-and-tear excepted.
16. Zidell Marine Corporation's current address is 3121 S.W. Moody Avenue, Portland, Oregon, 97201. The contact person regarding this Request for Information and General Notice Letter is Richard J. McCain, Corporate Secretary and General Counsel, Zidell Marine Corporation, 3121 S.W. Moody Avenue, Portland, Oregon 97201, telephone (503) 228-8691.

ZID1040058



- 17(a) Zidell Marine Corporation is a Washington corporation.
- 17(b) Zidell Marine Corporation was incorporated in January, 1960. Since that time there has been normal turnover in officers and directors. Current directors are: Mr. Emery Zidell, Jay Zidell and Larry G. Richards. Current officers are: President, Jay Zidell; Vice Presidents, Emery Zidell and Jack Zidell; Treasurer, Larry G. Richards; Secretary, Richard J. McCain. All directors and officers are located at 3121 S.W. Moody Avenue, Portland, 97201, telephone (503) 228-8691.
- 17(c) Zidell Marine Corporation has always been a Washington corporation.
- 17(d) Zidell Marine Corporation was originally incorporated as Zidell-Michaels Dismantling, Inc. In May 5, 1960, its corporate name was changed to Zidell Dismantling Company, and on February 16, 1981, its corporate name was changed to Zidell Marine Corporation. The company formerly had a subsidiary known as TFA, Inc., an Oregon corporation, which was incorporated October 22, 1984, and which on October 30, 1991 was merged into Zidell Marine Corporation.
- 17(e) Zidell is not aware of any arrangements made with the Port of Tacoma or any other party regarding liability for environmental contamination or property damage except as may be set forth in the enclosed leases. In particular note the Port's acknowledgement that it intended to continue to operate underground oil storage tanks on Zidell leased property set forth in Zidell's 1981 lease from the Port, and Addendum No. 1 thereto, wherein the Port agrees to indemnify and hold Zidell harmless from any liability therefrom.
- 18(a) Since incorporation in 1960, there have been approximately 200 general

ZID1040059



Ms. Allison Hiltner  
November 18, 1992  
Page 11



liability insurance carriers providing primary and excess general liability coverage. If the EPA believes it is relevant and absolutely necessary, a list could be compiled of the names of these liability insurance carriers.

- 18(b) Zidell certainly hopes and expects that several of its liability insurance policies would provide coverage for damages resulting from the release of hazardous substances and/or waste pollutants or contaminants if such were ever to be proven to occur from Zidell.
- 18(c) Copies of all Zidell liability insurance policies are available for review at Zidell's Portland, Oregon offices. As with respect to the liability insurance carriers requested in 18(a) above, if the EPA believes that dates and amounts of coverage are somehow relevant, a list could be provided.
19. All responsive records have been identified in Zidell's responses to questions 1 through 18 above.
20. The Port of Tacoma, its current and past employees, may have knowledge relating to the above questions. Likewise, Hooker Chemical/Occidental Chemical, their present and past employees, may have knowledge relating to the above questions.

If you have any further questions, please contact me.

Very truly yours,

ZIDELL MARINE CORPORATION

Richard J. McCain  
Corporate Secretary and  
General Counsel

RJM/lm

ZID1040060



(a) Tenant may cancel at the end of the first three years of said term or at the end of any succeeding year of the term, by giving twelve months' prior written notice to the other party; provided, however, that if tenant at the end of the first two years of said initial three-year period gives notice in writing to Owner of election to remain on the above-described premises under this lease for an additional two-year period, that in such case the Owner shall not have the right to terminate or cancel this lease and rental agreement during such two-year period, and that during each two-year period Tenant shall have the continuing right to give similar notice annually for succeeding two-year periods during the life of this agreement.

(b) Owner may cancel in the event the leased premises are not utilized by Tenant for the purposes of the lease for a period of six consecutive months. Such cancellation shall be by written notice given after the expiration of such period of six months and while the premises continue thus not utilized. The lease shall terminate two months after delivery of such notice unless prior to that time Tenant shall have commenced use thereof in accordance with the lease.

(c) Tenant may cancel in the event that for a period of six consecutive months Tenant does not have any work on hand and does not acquire at least one vessel for working and dismantling. Such cancellation shall be by written notice given after the expiration of such period of six months. The lease shall terminate two months after delivery of such notice.

This lease does not include the use or occupancy of any building.

Owner reserves for itself and the tenants rights of ingress and egress, loading and unloading, for persons, machinery and vehicles to and from all buildings on and adjacent to the leased acre by the most convenient route or routes, provided such routes shall not unreasonably inconvenience or burden Tenant's operations.

(Lease and Rental Agreement - 2)

The rental to be paid to the Owner by the Tenant for the above described premises shall be and hereby is fixed in the amount of Two Thousand One Hundred Twenty Dollars (\$2,122.00) per month. Such rent shall be paid monthly in advance at the offices of the Owner.

The Owner hereby rents to the Tenant Cranes Nos. 22 and 23 now on said premises, for a monthly rental of One Thousand Dollars (\$1,000.00) net, for the same period. The rent thereafter shall be paid monthly in advance with the rental under the lease provisions hereof. The mutual cancellation provisions of the lease shall be equally applicable to the rental of the said cranes.

~~If Tenant requires the use of other wharf cranes and the Owner has such cranes available, the Owner agrees to rent them to Tenant as required as is and when it is. The rent to be paid by Tenant for such use shall be One Hundred Dollars (\$100.00) per crane per day, except that if Tenant's use shall be for more than five days in each of two successive months, then such rental shall be Five Hundred Dollars (\$500.00) per month for the use of each such crane for each of such months. This paragraph applies only to cranes now owned by the Owner.~~

It is understood that the Tenant requires the use of at least one of the shipways in said industrial yard, and the Owner will make available for Tenant a minimum of at least one shipway, and such shipway and any additional shipways made available shall be rented to Tenant at Three Hundred Dollars (\$300.00) per month each.

It is understood that so long as the Tenant operates a scrapping operation on the leased premises with due diligence the Owner shall not lease Piers 1, 2 and the balance of Pier 3 or the shipway adjacent to Berth A to anyone engaged in the ship dismantling or scrap metal business. However, nothing herein

~~(Lease and Rental Agreement)~~  
JOHN H. BINNS, ROBERT A. JACQUES, JOHN A. PETRICH, ATTORNEYS-AT-LAW  
808 WASHINGTON BLDG. TACOMA 2, WASHINGTON

ZID1040063

shall prevent the Owner from leasing said docks to a ship repair company, or any other businesses unrelated to the scrap metal business.

A review of all the rentals herein established, including rentals of both the real and personal property, will be made by the parties prior to the end of the third year of tenancy and every two years thereafter, and the parties will negotiate the rental for the ensuing period. Consideration shall be given to the Wholesale Commodity Price Index prepared by the Bureau of Labor Standards of the United States Department of Labor. In no event shall the rental be raised or reduced by more than 10% of the rental for the preceding period. If the parties cannot agree upon such rental prior to the end of the first three-year period or any subsequent two-year period, they will submit the fixing of such rentals to an arbitrator qualified to deal with matters related to the ship wrecking industry. If they cannot agree upon such an arbitrator the matter shall be submitted in accordance with the statutes of the State of Washington.

Owner shall so long as it may legally do so, provide Tenant with water and electric power. Tenant shall pay to the Owner the same rate which the City of Tacoma would charge for the same services.

Other tenants and Owner requiring the use of rails running through the leased area for access to other parts of the Yard will have rights over the rails at regular switching periods designated by the Port of Tacoma.

Except as above provided tenant shall have the right of continuous ingress and egress from the gate to and from the working areas by rail and roadway.

It is understood and agreed that Owner's title to the

(Tacoma and Rental Agreement -4)

JOHN H. BINNS, ROBERT A. JACQUES, JOHN A. PETRICH, ATTORNEYS-AT-LAW  
806 WASHINGTON BLDG. TACOMA 2, WASHINGTON

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above described property is subject to a "National Security Clause" contained in the conveyance of the Tacoma Naval Industrial Shipyard property by the United States of America to Owner. Copy of said National Security Clause is hereto attached, marked Exhibit "A" and fully incorporated herein by reference. Tenant accepts this lease subject to the provisions of said National Security Clause. In case of its exercise by the United States in such a manner as to interfere materially with Tenant's operations, Tenant may, at its option, immediately terminate this lease and rental agreement but Owner shall not be liable for any loss or damage incurred by Tenant arising directly or indirectly out of any act or omission of the United States; PROVIDED, however, that to the extent that Tenant is or may be an assignee within the meaning of said "National Security Clause" it shall be entitled to all the rights and privileges of an assignee as provided in said "National Security Clause", and any sums recovered for loss or damage to Tenant under the provisions thereof shall be paid to Tenant. Owner agrees to cooperate with and assist Tenant to secure such compensation and reimbursement as Tenant shall be entitled to, and to execute all documents which may be necessary or convenient in connection therewith, PROVIDED that Tenant shall pay any costs or expenses incurred by Owner in seeking and/or obtaining such compensation or reimbursement for Tenant. Nothing herein contained shall be construed as in any way limiting the right of the Owner to negotiate a termination of the National Security Clause before its exercise by the United States.

Any improvements made by the Tenant may at the end of the term be removed or allowed to remain at the discretion of the Tenant, provided that if any improvement is removed the property shall be restored to its original condition so far as that particular improvement is concerned.

If the major leased structures on said premises are damaged by fire, explosion, or other casualty that cannot be repaired

(Lease and Rental Agreement -5)

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ZID1040065

either party may immediately cancel this lease, in which case the liability of the parties to each other shall be aimed as of the time of the casualty.

In case of default in any payment herein provided for to be made by Tenant, it shall be lawful for Owner to re-enter the premises and to remove all persons therefrom. Tenant hereby covenants, promises and agrees to pay the Owner the rents herein provided for at the times and in the manner above provided for and to be primarily responsible for the rents and covenants herein contained or subsequently agreed upon between the parties, or their assignees should any portion of the premises herein involved be sublet or assigned to any third party. No assignment or subletting shall be permitted without the written consent of owner. Tenant agrees that during the term of this lease it will not allow any unattended open fire or fire within unsafe distance of any structure.

Owner reserves the right to inspect the premises at any time as to compliance with law, safety regulations and practices, and the terms of this lease. Owner may, at its option, in whole or in part, but without obligation on its part, include the premises in its watchman service without cost to Tenant.

Tenant agrees that it will carry insurance in the names of Owner and Tenant as named associates for the benefit of Tenant and the Port of Tacoma in the amount of Two Hundred Thousand Dollars (\$200,000.00) upon docks covered by this lease against loss by fire and such hazards as may come within the terms of the so-called "Extended Coverage" endorsement commonly attached to and made a part of fire insurance policies. Original policies shall rest with the Port of Tacoma.

Owner shall hold Tenant harmless and free from liability for loss or damage to docks covered by this lease caused by fire and "Extended Coverage" hazards, without regard to whether such loss or damage be the result of any act or neglect

(Lease and Rental Agreement - C)

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ZID1040066

of Tenant, its agents or employees. Owner expressly waives all claims for such loss or damage.

Tenant shall hold Owner harmless and free from liability to Tenant for loss or damage to docks covered by this lease and all property of Tenant on the leased premises, caused by fire and "Extended Coverage" hazards without regard to whether such loss or damage be the result of any act or neglect of Owner, its agents or employees. Tenant expressly waives all claims for such loss or damage.

Tenant agrees to hold Owner harmless as to all claims arising out of damage to the property of third parties and bodily injuries to or the death of any person or persons in or about said premises, and to furnish a certificate of insurance naming the Port of Tacoma as an additional insured with limits of \$100,000/\$300,000 for bodily injuries and \$100,000.00 property damage.

Tenant shall be responsible for all damages to all cranes rented by Tenant and indemnify Owner for all such damages.

The Tenant accepts the equipment without any representation or warranty, express or implied, upon the part of the Owner and the Tenant agrees to make at its own cost and expense, all repairs necessary to put the equipment in such operational condition as may be required to fit the purpose of the Tenant; provided, however, that no substantial changes or alterations to the equipment shall be made by the Tenant without the Owner's prior written approval of such changes or alterations.

The Tenant agrees to use the equipment in a careful and prudent manner during the term hereof, to keep and maintain the same in a state of good condition and repair, and to replace and/or repair any and all damage thereto to the extent that upon the expiration or termination of this agreement the equipment shall be returned to the Owner in as good condition as (Lease and Rental Agreement -7)

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ZID1040067



when the Tenant received the same or as it may have been improved by Tenant, saving only ordinary wear and tear. Provided that when cranes are returned all wire rope shall be in good operating condition.

Tenant agrees to keep said premises in a clean and safe condition and to comply with all police, sanitary or safety laws and all applicable regulations or ordinances of all governmental bodies having authority over said premises or any part thereof.

In the event that any governmental body or bodies, authority or authorities shall, during any two-year period, require alterations, installations or additions to said premises requiring expenditures of \$2500.00 or less to comply therewith, Tenant shall offset the same.

If any such alterations, installations or additions shall require expenditures during any two-year period exceeding \$2500.00 and not exceeding \$10,000.00, Tenant shall pay the first \$2500.00 and owner shall pay the balance.

If any such alterations, installations or additions shall require expenditures during any two-year period exceeding \$10,000.00 the parties will confer and attempt to find a solution consistent with the continuation of the tenancy. If they fail to do so, either party may cancel this lease and rental agreement by thirty days' written notice.

The sums mentioned in the three preceding paragraphs are limits on total amounts required to be expended by the parties during any two-year period, whether the same be required on one occasion or on several.

Lessor shall forthwith execute and file with the Port Commission of the Port of Tacoma a bond satisfactory to said Port Commission in the penal sum of Forty-two Thousand Four Hundred Dollars (\$42,400.00) conditioned to carry out and perform all of the terms and conditions of this lease. Said bond

(Lease and Rental Agreement - 3)

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ZID1040068

shall fully comply with the provisions of RCW 53.00.020. If the monthly rental of the real property be increased by reason of any review of rental as provided herein, the penalty of the bond shall be increased proportionately. A bond or bonds sufficient to comply with the statute shall be at all times kept in full force and effect by Tenant. If such bond or bonds be executed by a surety company Tenant agrees to pay seasonably and in due time all premiums thereon and forthwith to file receipts therefor with Owner.

IN WITNESS WHEREOF, the parties hereto have caused this lease to be executed by their proper officers thereto authorized this 19th day of February, 1960.

PORT OF TACOMA

By Arthur E. Blair  
Its President.

By W. E. Dahl  
Its Secretary

ZIDELL-MICHAELS DISMANTLING, INC.

By Ernest Zidell  
Its President

By P. D. P.  
Its Secretary

The undersigned hereby jointly and severally guarantee compliance with all of the provisions of the foregoing Lease and Rental Agreement.

ZIDELL EXPLORATIONS, INC.

By Ernest Zidell  
Its President

P. D. P.  
Its Secretary

~~ZIDELL-MICHAELS COMPANY~~

By [Signature]  
Its President

[Signature]  
Its Secretary


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ZID1040069

STATE OF WASHINGTON, } ss.  
COUNTY OF PIERCE.

On this 14th day of February, 1930, before me appeared ARCHIE E. HAIR and W. S. BERDAHL, to me known to be the President and Secretary respectively of the Port of Tacoma, a municipal corporation, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath did state that the seal affixed is the corporate seal of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
Notary Public in and for the State  
of Washington, residing at Tacoma.

JOHN H. BINNS, ROBERT A. JACQUES, JOHN A. PETRICH, ATTORNEYS-AT-LAW  
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